

**Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench At Ahmedabad**

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 11855 of 2013- DB

(Arising out of OIA-CCEA-SRT-I/SSP-415/2012-13/U/S-35A dated 20/03/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-SURAT-I)

J K Paper Ltd

Fort Songadh,
Dist : Tapi,
Tapi, Gujarat

.....Appellant

VERSUS

C.C.E. & S.T.-Surat-I

New Building...Opp. Gandhi Baug,
Chowk Bazar,
Surat, Gujarat -395001

.....Respondent

WITH

- **Excise Appeal No. 11860 of 2013- DB (J K Paper Ltd)**
- **Excise Appeal No. 10588 of 2018- DB (J K Paper Ltd)**
- **Excise Appeal No. 13138 of 2013- DB (J K Paper Ltd)**
- **Excise Appeal No. 12118 of 2016- DB (J K Paper Ltd)**
- **Excise Appeal No. 12119 of 2016- DB (J K Paper Ltd)**
- **Excise Appeal No. 12123 of 2016- DB (J K Paper Ltd)**
- **Excise Appeal No. 12115 of 2016- DB (J K Paper Ltd)**
- **Excise Appeal No. 11712 of 2017- DB (J K Paper Ltd)**
- **Excise Appeal No. 10589 of 2018- DB (J K Paper Ltd)**
- **Excise Appeal No. 12900 of 2018- DB (J K Paper Ltd)**
- **Excise Appeal No. 10623 of 2019- DB (J K Paper Ltd)**

[(Arising out of OIA-CCEA-SRT-I/SSP-421-2012-13-U-S-35A dated 21/03/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-SURAT-I,(Arising out of OIA-CCESA-SRT-APPEALS-PS-194-2017-18 dated 15/11/2017 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I), (Arising out of OIA-CCEA-SRT-I/SSP-006-2013-14-U-S-35A dated 28/05/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-SURAT-I), (Arising out of OIA-CCESA-VAD-APP-II-VK-225-2016-17 dated 31/08/2016 passed Commissioner of Central Excise and Service Tax-VADODARA-I(Appeal)), (Arising out of OIA-CCESA-VAD-APP-II-VK-230-2016-17dated 31/08/2016 passed Commissioner of Central Excise and Service Tax-VADODARA-I(Appeal)), (Arising out of OIA-CCESA-VAD-APP-II-VK-229-2016-17 dated 31/08/2016 passed Commissioner of Central Excise and Service Tax-VADODARA-I(Appeal)), (Arising out of OIA-CCESA-VAD-APP-II-VK-224-2016-17 dated 31/08/2016 passed Commissioner of Central Excise and Service Tax-VADODARA-I(Appeal)), (Arising out of OIA-CCESA-VAD-APP-II-VK-42-2017-18 dated 15/05/2017 passed Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-VADODARA-II), (Arising out of OIA-CCESA-SRT-APPEALS-PS-195-2017-18 dated 15/11/2017 passed Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I), (Arising out of OIA-CCESA-SRT-APPEALS-PS-195-2017-18 dated 15/11/2017 passed Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I), (Arising out of OIA-CCESA-SRT-APPEALS-PS-638-2018-19 dated 11/12/2018 passed Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)]

APPEARANCE:

Shri Sunil Vatvani , Chartered Accountant for the Appellant
Shri A.K.Samota, Superintended (AR) for the Respondent

**CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C L MAHAR**

Final Order No. 11423-11434/2023

DATE OF HEARING: 13.04.2023
DATE OF DECISION: 03.07.2023

RAMESH NAIR

The issue involved in the present case is that whether the appellant is liable to pay excise duty on the effluent treatment sludge generated due to effluent treatment plant wastage arising in the manufacture of final product i.e. Paper.

02. Shri Sunil Vatvani, Learned Chartered Accountant appearing on behalf of the appellant submits that the contention of the department is that since the effluent treatment sludge is generated during the course of manufacture, the same is liable to payment of duty. He submits that the ET Sludge is generated during the treatment of effluent which is arising out of manufacture of final product. He submits that on the very same issue various judgments have been passed according to which the identical goods were held not to be excisable and no payment was chargeable on the same. He placed reliance on the following judgments:- (16 judgments)

- Balrampur Chini Mills Ltd-2015 (320) E.L.T. A258 (S.C.)
- BALRAMPUR CHINI MILLS LTD-2015 (320) E.L.T. 633 (Tri. - Del.)
- Shakumbari Sugar & Allied Industries Ltd- 2005 (189) E.L.T. A62 (S.C.)
- DSCL SUGAR LTD-2015 (322) E.L.T. 769 (S.C.)
- Hindalco Industries Limited-2019 (367) E.L.T. A246 (S.C.)
- HINDALCO INDUSTRIES LIMITED-2015 (315) E.L.T. 10 (Bom.)
- INDIAN ALUMINIUM CO. LTD. 2006 (203) E.L.T. 3 (S.C.)
- GRASIM INDUSTRIES LTD.- 2011 (273) E.L.T. 10 (S.C.)
- RAHA OILS (P) LTD.- 2019 (369) E.L.T. 1356 (Tri. - Chennai)

- RICELA HEALTH FOODS LTD.-2018 (361) E.L.T. 1049 (Tri. - LB)
- STAR PAPER MILLS LTD.-2003 (158) E.L.T. 846 (Tri. - Del.)
- TITAWI SUGAR COMPLEX- 2003 (152) E.L.T. 21 (S.C.)
- STAR PAPER MILLS LTD.- 2013 (287) E.L.T. 217 (Tri. - Del.)
- INDOR RAMA SYNTHETICS (I) LTD.- 2016 (336) E.L.T. 541 (Tri.- Mumbai)
- ITC LTD.- 2014 (303) E.L.T. 557 (Tri.-Chennai)
- AMARAVATHI CO-OPERATIVE SUGAR MILLS LTD.- 2013 (291) E.L.T. 126 (Tri.-Chennai)

2.1 He alternatively submits that the sludge obtained in the effluent treatment plant is specifically exempted vide Notification No. 76/86-CE dated 10.02.1986 as amended.

03. Shri Ajay Kuma Samota, learned Superintendent (AR) appearing on behalf of the revenue reiterates the finding of the impugned order.

04. We have carefully considered the submissions made by both the sides and perused the records. We find that the identical issue has been considered in various judgments by the Hon'ble Apex Court as cited by the appellant in their above submission therefore, the wastage arising out of the manufacture of paper is prima facie not liable to duty in the light of the said judgments. However, the sludge arising out of the effluent treatment is specifically exempted vide Notification No.76/86-CE dated 10.02.1986. The said notification is reproduced below:-

"Exemption to articles of erstwhile Tariff Item 68

In exercise of the powers conferred by sub-rule (1) of rule 8 of the Central Excise Rule, 1944 and in supersession of the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 234/82-Central Excises, dated the

1st November, 1982, the Central Government hereby exempts goods of the description specified in the Schedule hereto annexed and falling under the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), from the whole of the duty of excise leviable thereon under section 3 of the Central Excises and Salt Act, 1944 (1 of 1944).

THE SCHEDULE

1. Writing slates

2. Handicrafts

3. *Met Coke*
4. *Asphalt Mix and Hotmix*
5. *Scented Chunnam (Lime)*
6. *Katha (Catechu)*
7. *Vibuthi (Thiruneeru)*
8. *Contraceptives*
9. *Guar splits*
10. *Enamelware*
11. *Tooth brushes*
12. *Ocean-going vessels*
13. *Laminated jute bags*
14. *Agricultural grade pyrites*
15. *Pressmud, bagasse, saw dust and fly ash*
16. *Coke-oven gas and blast furnace gas*
17. *Sludge obtained in the sewage or effluent treatment plant belonging to municipal corporation, local authority or an industrial unit.*
18. *Cinder*
19. *Water filters, of a capacity not exceeding forty litres.*
20. *Leather board.*
21. *Animal drawn vehicles manufactured (a) out of iron sheets, rods, bars, angles or wooden planks; and the following parts of animal drawn vehicles (b)*
 - (i) *wheels; and*
 - (ii) *Axles.*
22. *Cut tyres and cut tubes.*
23. *Erasers.*

This notification shall come into force on the 28th day 2. of February, 1986."

From the above Notification (Srl. No.17) it can be seen that sludge obtained in the effluent treatment plant belonging to an industrial unit is exempted from payment of duty. In the present case, the sludge admittedly obtained in the factory of the appellant and the same was obtained during the treatment of effluent in treatment plant.

4.2 In view of the above exemption notification, the sludge obtained from effluent treatment in the appellant's factory is clearly exempted therefore, the demand raised by the lower authorities is not sustainable.

5. Accordingly, the impugned orders are set aside. Appeals are allowed.

(Pronounced in the open court on 03.07.2023)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C L MAHAR)
MEMBER (TECHNICAL)

Raksha