

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

REGIONAL BENCH- COURT NO. 3

Excise Appeal No. 10776 of 2013-DB

(Arising out of OIA-CCEA-SRT-I-SSP-342-2012-13-U-S-35A dated 11/02/2013 passed by Commissioner of Central Excise, CUSTOMS (Adjudication)-SURAT-I)

Coper Co Operative Sugar Ltd

At : Dadariya,
Tal : Valod,
Tapi, Gujarat

.....Appellant

VERSUS

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

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

.....Respondent

APPEARANCE:

Shri Akshay Modi, Chartered Accountant appeared for the Appellant
Shri Kalpesh P Shah, Assistant Commissioner (AR) for the Respondent

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

Final Order No. A/ 11475 /2023

DATE OF HEARING: 12.06.2023
DATE OF DECISION: 10.07.2023

RAMESH NAIR

The issue involved in the present case is that whether an amount of 10%/5% of the value of Bagasse and Press-mud generated during the course of manufacturing of sugar and cleared without payment of duty is required to be paid in terms of Rules 6(3) of Cenvat Credit Rules, 2004

2. Shri Akshay Modi, Learned Chartered Accountant appearing on behalf of the appellant submits that the issue is no longer res-integra in the light of the following board circular and judgments:-

- UOI vs. DSCL Sugar Ltd – 2015 (322) ELT 769 (SC)
- UOI vs. Hindalco Industries Ltd – 2019 (367) ELT A246 (SC)
- Balrampur Chini Mills Ltd vs. UOI – 2014 (300) ELT 372.

3. Shri Kalpesh P Shah, Learned Assistant Commissioner (AR) appearing on behalf of the Revenue reiterates the finding of the impugned order.

4. We have carefully considered the submission made by both sides and perused the records. We find that bagasse and press mud is the waste generated during the course of manufacture of sugar. In terms of Para 3.7 of Chapter 5 of CBEC's Central Excise Manual, the cenvat credit is admissible in respect of the input contained any waste by product or refuse. Therefore, even though the bagasse and press-mud is cleared without payment of duty but being the waste generated during the course of manufacture of sugar, the cenvat credit is admissible. Consequently, Rule 6 is not applicable in the present case. The issue is otherwise covered by the judgment relied upon by the Learned Chartered Accountant. Accordingly, in our considered view the appellant is not required to pay 10%/5% of the value of bagasse and press mud in terms of Rule 6 (3) of Cenvat Credit Rules, 2004.

5. Therefore, the impugned order is set aside and appeal is allowed.

(Pronounced in the open court on 10.07.2023)

RAMESH NAIR
MEMBER (JUDICIAL)

C.L. MAHAR
MEMBER (TECHNICAL)