FAX : 0532-2400149

REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 23/02/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70364-70365/2018-SM[BR] dated 06/02/2018

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/70141/2017	**Dwarikesh Sugar Industries Ltd** Afzalganj BIJNOR – (UP)
2	E/70142/2017	**Dwarikesh Sugar Industries Ltd** Dwarikesh Nagar,bundki BIJNOR – (UP)
		Name and Address of Respondent
3		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005
4		C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

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Other Appellants and Respondents as per Annexure

Copy To

5Advocate(s) / Consultant(s):

**LASA CONSULTANCY PVT LTD
D-60, GROUND FLOOR, SECTOR-2, NOIDA DISTRICT GAUTAM BUDDH NAGAR UP**

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6 Bar Association, CESTAT, Allahabad

7 Director Publications, Customs, Excise. I.P. Estate, Delhi

8 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

9 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

10 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

11 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

12 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

13 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

14 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

15 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

16 C.D.R. 17 Office Copy 18 Second Folder Copy 19 Guard File

Asstt. Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No. E/70141-70142/2017-EX[SM]

(Arising out of Order-in-Original No. 58-59/COMMR/HPR/2016-17 both dated 21/11/2016 passed by Commissioner of Customs, Central Excise & Service Tax, Hapur at Meerut)

M/s Dwarikesh Sugar Industries Ltd. **Appellant**

Vs.

Commissioner of Customs, Central Excise & Service Tax, Hapur at Meerut **Respondent**

Appearance:

Shri M. B. Mathur, Advocate, for Appellant

Shri Gyanendra Kumar Singh, Assistant Commissioner (AR), for Respondent

CORAM:

Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing & Date of Decision : 06/02/2018

FINAL ORDER NO. 70364-70365/2018

Per: Anil G. Shakkarwar

Above stated two appeals are taken together for decision because the issue involved in both the appeals is common and appeals are also filed by the same appellants for different periods.

2. The brief facts of the case are that the appellants are engaged in manufacture of Sugar & Molasses. During the process of manufacture of Sugar, Bagasse is generated. Revenue entertained a view that input services were going into the manufacture of dutiable products i.e. Sugar &

Molasses and exempted product Bagasse. Therefore, in said two appeals amount under Rule 6(3) of Cenvat Credit Rules read with Rule 14 of Cenvat Credit Rules, 2014 to the tune of Rs.33,37,169/- & Rs.10,93,132/-/-.corresponding to the value of Bagasse was proposed to be recovered. The proceedings reached the stage of filing these appeals.

3. Heard the ld. Counsel for the appellant. He has submitted that the issue is covered by the ruling of Hon'ble Supreme Court of India in the case of Union of India *Versus* DSCL Sugar Ltd. reported in 2015 (322) E.L.T. 769 (S.C.), wherein it has been held that Bagasse is not manufactured product. He has argued that in view of the said ruling, the contention of Revenue for recovery of amount under Rule 6(3) of Cenvat Credit Rules, 2004 on the value of Bagasse is not tenable.

4. Heard the ld. A. R. for Revenue, who has supported the impugned orders.

5. Having considered the rival contentions and on perusal of the facts on record, I am satisfied that the issue involved in both the present appeals is covered by the ruling of Hon'ble Supreme Court of India in the case of Union of India *Versus* DSCL Sugar Ltd. (supra) wherein it has been held that the Bagasse is an agriculture waste and residue Bagasse is not generated as a result of any process of manufacture. It was, further, held that Bagasse is not excisable goods.

I, therefore, set aside the impugned orders and allow both the appeals. The appellants shall be entitled for consequential relief, as per law.

(Dictated in Court)

Sd/-

ANIL G. SHAKKARWAR

(MEMBER TECHNICAL)

Ansari

प्रमाणित प्रति/Certified True Copy

सहायक पंजीकार/Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण(C.E.S.T.A.T.)
38, एम.जी.मार्ग, इलाहाबाद-211001
38, M. G. MARG,ALLAHABAD-211001