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: 03/04/2018

To

Appellant as per address in table below
Respondent as per address in table below

Final Order No. A/70711-70712/2018-EX[DB] dated 24/01/2018

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/50360/2015	**Commissioner of Central Excise and Service Tax-Lucknow** 7-A...ASHOK MARG, LUCKNOW, UTTAR PRADESH 226001
2	E/50437/2015	**Balrampur Chini Mills Ltd** Post Office Balrampur BALRAMPUR UP

Name and Address of Respondent

3 C.C. & C.E. & S.T.-Allahabad
38...M G MARG...CIVIL LINES,
ALLAHABAD,
UTTAR PRADESH-211001

4 Hadiergarh Chini Mills
Haidergarh,,
BARABANKI
,UP

Other Appellants and Respondents as per Annexure

Copy To

5 Advocate(s) / Consultant(s):

BIPIN GARG & CO.
ADVOCATES(ALLD)
102, MAHALAXMI ENCLAVE
(ADJ. INCOME TAX OFFICE),
STANLEY ROAD, CIVIL LINES,
ALLAHABAD (U.P.)-211001

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)

Contd. 2/-

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/50360 & 50437/2015-EX[DB]

(Arising out of Order-in-Appeal No. 164-CE/LKO/2014 dated 09/10/2014 passed by Commissioner of Central Excise & Customs (Appeals), Lucknow & 44-CE/ALLD/2012 dated 09.09.2014 passed by Commissioner of Central Excise (Appeals) Allahabad)

Commissioner of Central Excise, Lucknow (Appeal No.E/50360/2015)&

M/s Balrampur Chini Mills Ltd. (Appeal No.E/50437/2015)**Appellants**

Vs.

M/s Haidergarh Chini Mills (in Appeal No.E/50360/2015) &

Commissioner of Central Excise, Allahabad **Respondents**

Appearance:

Shri Rajeev Ranjan, Joint Commissioner (AR)	for Revenue
Shri Bipin Garg & Ms Stuti Saggi, Advocates.	for Assessee

CORAM:

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

Date of Hearing : 24/01/2018
Date of Decision : 24/01/2018

FINAL ORDER NOs. 70711-70712/2018

Per: Anil Choudhary

As the issue in both the appeals is common, therefore, they are taken together for decision. The issue in these appeals is whether the assessee is required to pay duty by way of reversal under Rule 6 (3) of Cenvat Credit Rules, 2004 for removal of items namely Press-mud (waste product).

2. In the case of M/s Haidergarh Chini Mills, revenue has raised the duty under Rule 6 (3) on Press-mud which was cleared at nil rate of duty. Initially, the assessee had deposited the duty and therefore, they filed refund application for the period 2010-11 and 2011-12 for claiming refund of Rs.56,342/-.

3. In the case of M/s Balrampur Chini Mills Ltd. the assessee was using the Press-mud and spent wash (waste materials) and converting them as bio-compost, as required under the directions of State Pollution Control Board, to safe guard the pollution of land etc. It appeared to revenue that the appellant is not maintaining separate account for receipt and use of input in respected of exempted goods that is bio-compost and as such they are liable to pay amount at the specified percentage as provided under Rule 6 (3) of CCR, 2004.

4. Heard the parties.

5. Having considered the rival contentions, we find that the issue of taxability of Press-mud and bagasse have been decided in the favour of assessee by Hon'ble Supreme Court in the case of Union of India Vs M/s DSCL Sugar Ltd. reported at 2015 (322) ELT 769 (SC) wherein it has been held that press-mud and bagasse are agricultural waste and residue and there is no process in respect of bagasse, etc.,

specified either in the Section or in the Chapter note. In absence thereof this deeming provision cannot be attracted. Thus, these goods cannot be treated, as manufactured goods under Section 2 (f) of the Act and are not chargeable to Excise duty. Accordingly, on clearance of waste, the provisions of Rule 6 (3) of Cenvat Credit Rules, 2004, are not attracted.

6. In the case of Balrampur Chini Mills Ltd. in respect of bio-compost, we find that the inputs are press-mud and Spent wash which are the waste of the sugar industries and no Cenvatable inputs have gone in the manufacture of bio-compost. Accordingly, we hold that the provisions of Rule 6 (3) of CCR are not attracted in the case of removal of bio-compost.

7. Accordingly, the appeal filed by revenue is dismissed and the appeal filed by appellant-assessee is allowed. The assessees shall be entitled for consequential relief, in accordance with law.

(Dictated in Court)

-Sd/-
(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

-Sd/-
(ANIL CHOUDHARY)
Member(JUDICIAL)

akp

प्रमाणित प्रति/Certified True Copy

04/04/18

(C.E.S.T.A.T.)

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