

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,  
REGIONAL BENCH : ALLAHABAD**

**E/COD/70301/2018  
E/71030/2018-EX[DB]**

(Arising out of Order-in-Appeal No.MRT/CX/000/APPL-MRT/356/2017-18 dated 21.03.2018 passed by Commissioner of Central Goods & Services Tax(Appeals), Meerut.)

Commissioner of Central Excise & Service Tax, Meerut-I  
...APPELLANT(S)

VERSUS

M/s.Bajaj Hindusthan Sugar Ltd.

RESPONDENT (S)

APPEARANCE

Shri Sandeep Kr. Singh (Dy.Commr.) (A.R.) for the Revenue  
Shri Shubham Agarwal (Advocate) for the Respondent

**CORAM:**

MRS. ARCHANA WADHWA, HON'BLE MEMBER(JUDICIAL)  
SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 10.12.2018

FINAL ORDER NO.72832/2018

**Per Mrs.Archana Wadhwa :**

After condoning the delay in filing the present appeal by the Revenue, we proceed to decide the appeal itself inasmuch as a short issue is involved, which stands covered by the precedent decisions.

2. As per facts on record, the respondents are engaged in the manufacture of sugar and molasses during the course of manufacture of which press mud and bagasse emerge. During the period May 2010

to March 2015, the respondents cleared molasses and press mud at nil rate of duty.

3. According to the Revenue, the respondent was required to pay an amount on the value of clearance of the said goods in terms of Rule 6(3)(i) of the Cenvat Credit Rules, 2004. For the said purposes, the respondents were issued five show cause notices covering different periods, which culminated into an order passed by the original adjudicating authority, who dropped the proceedings, in the light of Apex Court decision in the case of Union of India v. DSCL Sugar Ltd. [2015 (322) E.L.T. 769 (S.C.)].

4. The said order of the original adjudicating authority was challenged by the Revenue before Commissioner(Appeals) only for the month of March 2015, on the basis of the insertion of explanation 1 of explanation 2 in sub-rule (1) of Rule 6 of Cenvat Credit Rules, w.e.f. 01.03.2015.

5. The appellate authority did not find favour with the Revenue's contentions and as such the Revenue has further carried the matter before Tribunal.

6. The short issue required to be decided is as to whether the explanations entered in Rule 6(3) w.e.f. 01<sup>st</sup> March, 2015 would have the effect of the assessee being under a legal obligation to pay duty on the non-excisable goods bagasse and press mud. We note that the explanations were considered by the Tribunal in the case of

M/s.Simbhaoli Sugar Ltd. v. Commissioner of Central Excise, Noida vide final Order No.71567/2018 dated 19.07.218.

7. It was observed that inasmuch as according to Supreme Court's decision in the case of Union of India v. DSCL Sugar Ltd. referred (supra), bagasse has been held to be an agricultural waste or residue, there could be no manufacturing activity. The press mud has also been held to be a waste and not a manufactured product. As such the amendment made in the provisions of Rule 6 would not have any effect to the facts and circumstances of the present case.

8. Inasmuch as the issue stands decided by the above-referred decision, we find no merits in the Revenue's stand and accordingly reject their appeal.

9. In any case and in any view of the matter it stands clarified by the learned A.R. appearing for the Revenue that the amount of duty involved for the month of March, 2015, which is being contested by the Revenue is less than Rs.20.00 Lakhs. Accordingly, Revenue's appeal is also required to be dismissed on the basis of Litigation Policy.

10. In view of the above, appeal is rejected.

(Dictated and pronounced in the open Court.)

SD/  
**(ANIL G. SHAKKARWAR)**  
**MEMBER(TECHNICAL)**

SD/  
**(ARCHANA WADHWA)**  
**MEMBER (JUDICIAL)**

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