

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

Dated: 21/02/2017

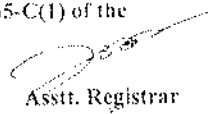
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70206/2017-SM[BR] dated 03/02/2017

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/545/2011	SARJOO SAHKARI CHINI MILLS LTD., BELRAYAN, DISTT. LAKHIMPUR KHERI (U.P.)
		Name and Address of Respondent
2		-C.C.E. LUCKNOW 7-A, Ashok Marg, Lucknow.

Copy To**3 Advocate(s) / Consultant(s):**

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

4 Bar Association, CESTAT, Allahabad

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

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

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

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

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

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

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

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

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

14 C.D.R.

15 Office Copy

16 Guard File


 Asstt. Registrar

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

Appeal No. : E/545/2011-EX[SM]

Arising out of OIA No. 433-CE/LKO/2010 dated 29.11.2010 passed by
Commissioner (Appeals), Customs & Central Excise, Lucknow.

Sarjoo Sahkari Chini Mills Ltd.

...APPELLANT

VERSUS

Commissioner, Central Excise, Lucknow.

...RESPONDENT

APPEARANCE

Ms. Stuti Saggi, Advocate for the appellants.

Shri D.K. Deb, (Asstt. Commr) A.R. for the Department.

CORAM:

HON'BLE MR. ANIL G. SHAKKARWAR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 03.02.2017

FINAL ORDER NO.-70206/2017

Per Mr. Anil G. Shakkarwar :



The present appeal is filed against OIA No. 433-CE/LKO/2010 dated 29.11.2010 passed by Commissioner (Appeals), Customs & Central Excise, Lucknow.

2. The brief facts of the case are that a show cause notice dated 01.10.2009 was issued for recovery of an amount of Rs. 25,09,389/- on the value of Bagasse under Rule 14 of Cenvat Credit Rules, 2004 read with Rule 6(3)(b) of Cenvat Credit Rules, 2004. The said show cause notice was adjudicated through Order-in-Original dated 26.03.2010 where the amount was confirmed and equal penalty was

imposed. Appellant preferred appeal before the learned Commissioner (Appeals), who decided the said appeal through impugned Order-in-Appeal No. 433-CE/LKO/2010 dated 29.11.2010 wherein the Order-in-Original was upheld to the extent of confirmation of demand and penalty was reduced to Rs. 5 lacs. Aggrieved by the said Order-in-Appeal, the appellant is before this Tribunal.

3. Heard the learned counsel for appellant who has submitted that Hon'ble Supreme Court in the case of Union of India vs. DSCL Sugar Ltd. reported at 2015(322) E.L.T. 769 (S.C.) has ruled that Bagasse is not covered by the definition of manufacture and therefore, the show cause notice was not sustainable and appeal may be allowed.

4. Heard the learned D.R., who has supported the impugned Order-in-Appeal.

5. Having considered the rival contentions of both the sides and on perusal of records I find that the ruling of Hon'ble Supreme Court in the above stated case law is squarely applicable in the present case. I, therefore, allow the appeal and set aside the impugned Order-in-Appeal.

(Pronounced and dictated in the open Court)

-Sd/-

(ANIL G. SHAKKARWAR)

Member (TECHNICAL)

Patel/-

प्रमाणित प्रति / Certified True Copy

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

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