REGISTERED / AD

FAX : 0532-2400149

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

Dated: 06/02/2017

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

Final Order No. A/70131/2017-EX[DB] dated 19/01/2017

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/MISC/70517/2016	E/1917/2012	**Tikaula Sugar Mills Ltd** Village- Tikaula, Tehsil-jansath, Distt-Muzaffarnagar(U.P.)
			Name and Address of Respondent
2			C.C.E. & S.T.-Meerut-i EXCISE CHOWK...UNIVERSITY ROAD,MANGAL PANDEY NAGAR, MEERUT, UTTAR PRADESH-250005

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

Aalok Arora,Adv
82 - Mission Compound,
Saharanpur,
Uttar Pradesh

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 & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. E/1917/2012-EX[DB] With
MISC Application No. E/MISC/70517/2016

(Arising out of Order-in-Original No. 21/Commissioner/MRT-I/2012 dated 30/03/2012 passed by Commissioner of Central Excise & Customs, Meerut-I)

M/s Tikaula Sugar Mills Ltd. Appellant

Vs.

Commissioner of Central Excise & Service Tax, Meerut-I Respondent

Appearance:

Shri Aalok Arora, Advocate, for Appellant
Shri D. K. Deb, Assistant Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing & Date of Decision : 19/01/20
FINAL ORDER NO. 70131/2017

Per: Anil G. Shakkarwar

The present Miscellaneous Application bearing No. 70517/2016 is filed with request for early hearing of Appeal No. E/1917/2012, for the reason 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. & Others reported in 2015 (322) E.L.T. 769 (S.C.). Heard the ld. Counsel for the appellant who has submitted that the appellant is manufacturing Sugar & Molasses and that the allegations in the Show Cause Notice are that the appellant is availing Cenvat credit on inputs and that from sugarcane during the process of manufacture of sugar bagasse was generated and that bagasse used in the manufacture of electricity. The Show Cause Notice was proposed to collect amount of Rs.1,35,39,886/- under Rule 14 of Cenvat Credit Rules, 2004 read with proviso to Sub-section (1) of Section 11A of Central Excise Act, 1944 being the amount eligible for reversal under the provisions of Sub-rule (3) of Rule 6 of Cenvat Credit Rules, 2004 on the value of electricity sold to M/s UPPCL generated by use of said bagasse. We find that the issue is covered by ruling of Hon'ble Supreme Court of India in case of Union of India *Versus* DSCL Sugar Ltd. & Others (Supra). Therefore, Miscellaneous Application is allowed.

2. With the consent of Revenue the matter was taken up for final disposal.

3. Heard the ld. Counsel for the appellant who has submitted that the Hon'ble Supreme Court of India has held that bagasse is only an agriculture waste and residue and it is not a result of any process covered by the definition of manufacture and further held that bagasse is not excisable goods. The Hon'ble Supreme Court of India in the said case further held that since there is no process of manufacture involved in generation of bagasse Sub-rule (3) of Rule 6 of Cenvat Credit Rules, 2004 is not applicable in respect of bagasse. He has pleaded that the ruling of Hon'ble Supreme Court of India is squarely applicable in the present case.

4. Heard the ld. D. R. who has supported the impugned Order-in-Original.

5. Having considered the rival contentions and on perusal of record, we find that the issue involved in the present case is that bagasse generated from the manufacture of Sugar & Molasses used in the manufacture of electricity and electricity being treated as cleared at nil rate of duty therefore whether it will require reversal of amount as provided under Sub-rule (3) of Rule 6 of Cenvat Credit Rules, 2004. We find that the Hon'ble Supreme Court of India has held in the said case of Union of India *Versus* DSCL Sugar Ltd. & Others (Supra) that bagasse is an agriculture waste and residue ~~and~~ of bagasse is not a result of any process of manufacture. It was, further, held that since bagasse is not excisable goods the denial of Cenvat credit on electricity on the premises of bagasse being excisable goods is not sustainable. Therefore, we find that the ruling of the Hon'ble Supreme Court of India in the case of Union of India *Versus* DSCL Sugar Ltd. & Others (Supra) is squarely applicable in the present case. In view of such finding, we set aside the impugned Order-in-Original and allow the appeal. The appellant shall be entitled to consequential relief, if any, as per law.

(Dictated and pronounced in Court)

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

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

Ansari

प्रमाणित प्रति / Certified True Copy
8.2.17
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