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: 10/01/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70114/2018-EX[DB] dated 03/01/2018

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/1392/2012 | **Indian Potash Limited** (formerly Up State Sugar Corpn Ltd) Rohana Kalan, Muzaffarnagar-251202 |
| | | 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):

**R. S. Sharma, Adv.**
**C-9/9656, Vasant Kunj,**
**New Delhi,**
**Delhi**
**110070**

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, Opp ICICI Bank of Defence Colony 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 Second Folder Copy 17 Guard File

Asstt. Registrar

# IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

REGIONAL BENCH : ALLAHABAD

COURT No. I

APPEAL No.E/1392/2012-EX[DB]

(Arising out of Order-in-Appeal No. 09-CE/MRT-I/2012 dated 11/01/2012 passed by Commissioner of Central Excise (Appeals), Meerut-I)

**M/s Indian Potash Ltd.** **Appellant**

Vs.

**Commissioner of Central Excise, Meerut-I** **Respondent**

Appearance:

Request for decide on Merits, for Appellant
Shri Pawan Kumar Singh, Supdt (AR), for Respondent

**CORAM:**

**Hon'ble Smt. Archana Wadhwa, Member (Judicial)**
**Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)**

Date of Hearing : 03/01/2018
Date of Decision : 03/01/2018

FINAL ORDER NO.-70114/2018..........

**Per: Archana Wadhwa**

The appellant have made a prayer to decide the appeal on the basis of written submission filed by them. We have gone through the same and heard the learned A.R. The issue requires to be decided is as to whether the appellant is required to reverse the credit pr to pay 10% of the value of Bagasse as also the Press Mud, which comes into existence during the course of manufacture of sugar.

2. We note that the Tribunal has already decided the said issue in appellant's own case reported at M/s Indian Potash Ltd. Vs Commissioner of Central Excise-Allahabad vide Final Order No.A/486/2012 dated 20.04.2012 in Appeal No.E/2957/2011-EX[DB] and held that there is no requirement of invocation of

Rule 6 (3) of Cenvat Credit Rules. For further appreciation, we are reproducing para-06 of the said order:-

> *"6. We have considered the rival submissions. We find that bagasse emerges in course of crushing of the sugarcane. It may be noted that crushing of sugarcane is necessary to extract cane sugar juice which in turn is processed for production of sugar and molasses. Bagasse is the waste product left after the crushing of sugarcane. Therefore, by no stretch of imagination it can be said that the assessee possibly could have maintained separate accounts for the inputs for production of sugar and molasses (excisable item) and bagasse. Thus, in our considered view, the amendment in Final Act, cited by Shri Nagesh Pathak, AR and the Boards Circular would not make any difference in the facts and circumstances of the case. Moreover, neither the show cause notice nor the impugned order in appeal mentions as to which common Cenvat credit availed inputs have been used in manufacture of sugar and molasses (dutiable final product) and bagasse (exempted final product). Since Bagasse emerges at sugarcane crushing stage, there is no possibility of any inputs-chemicals etc. having been used at that stage. Accordingly, we find merit in the contention of the appellant. The impugned order is set aside. The appeal and stay applications are allowed."*

3. Inasmuch as the issue stands decided in appellants own case, we, by following the same set aside the impugned order and allow the appeal with consequential relief, if any.

(Dictated in Court)

**Sd/-**
**Anil.G. Shakkarwar**
**Member(Technical)**

**Sd/-**
**(Archana Wadhawa)**
**Member (Judicial)**

*akp*

प्रमाणित प्रति/Certified True Copy

12/02/18

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