

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

Dated: 11/04/2018

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70735-70743/2018-EX(DB) dated 09/04/2018

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/1453/2011	DHAMPUR SUGAR MILLS LTD Dhampur N. Rly. Distt- Bijnor(UP)
2	E/1454/2011	DHAMPUR SUGAR MILLS LTD Dhampur N. Rly. Distt- Bijnor(UP)
3	E/1455/2011	DHAMPUR SUGAR MILLS LTD Dhampur N. Rly. Distt- Bijnor(UP)
4	E/1456/2011	DHAMPUR SUGAR MILLS LTD Dhampur N. Rly. Distt- Bijnor(UP)
5	E/1616/2011	DHAMPUR SUGAR MILLS LTD. N.RLY. DISTT. BIJNOR (U.P.)
6	E/1617/2011	AMIT SHARMA, DGM (COMML.) DHAMPUR SUGAR MILLS LTD. N.RLY. DISTT. BIJNOR (U.P.)
7	E/1618/2011	AMIT SHARMA, DGM (COMML.) DHAMPUR SUGAR MILLS LTD. N.RLY. DISTT. BIJNOR (U.P.)
8	E/1619/2011	AMIT SHARMA, DGM (COMML.) DHAMPUR SUGAR MILLS LTD. N.RLY. DISTT. BIJNOR (U.P.)
9	E/1620/2011	AMIT SHARMA, DGM (COMML.) DHAMPUR SUGAR MILLS LTD. N.RLY. DISTT. BIJNOR (U.P.)

	Name and Address of Respondent
10	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
11	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
12	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
13	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
14	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
15	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
16	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
17	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)
18	-C.C.E. MEERUT II (now Hapur) Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Other Appellants and Respondents as per Annexure

Copy To

19 Advocate(s) / Consultant(s):

**PUSHPILA BISHT
ADVOCATE
CHAMBER NO.-24 A,HIGH
COURT,ALLAHABAD**

20 Bar Association, CESTAT, Allahabad

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

22 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, Opp ICICI Bank of Defence Colony New Delhi-3

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

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

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

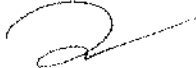
26 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

27 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

28 The ICAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

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

30 C.D.R. 31 Office Copy 32 Second Folder Copy ~~33~~ Guard File


Asstt. Registrar

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I**

APPEAL Nos. E/1453-1456 & 1616-1620/2011-EX[DB]

(Arising out of Order-in-Appeal No. 59-63-CE/MRT-II/2011 dated 28/02/2011 passed by Commissioner of Central Excise & Customs (Appeals), Meerut-II)

Dhampur Sugar Mills Ltd. (in Appeal No. E/1453-1456 & 1616/2011),

Amit Sharma, DGM (Comm.) (in Appeal No. E/1617-1620/2011)

Appellants

Vs.

Commissioner of Central Excise, Meerut-II (now Hapur)

Respondent

Appearance:

Ms. Pushpila Bisht, Advocate

for Appellants

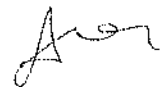
Shri Sandeep Kumar Singh, Assistant Commissioner (AR)

for Respondent

CORAM:

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

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

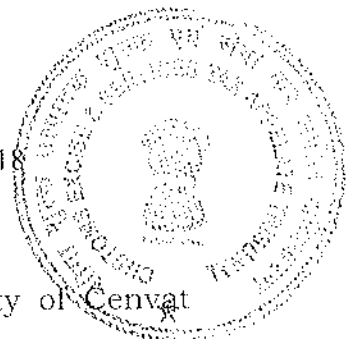


Date of Hearing : 28/08/2017

Date of Decision : 28/08/2017

FINAL ORDER NOS-75735-75743/2018

Per: Anil Choudhary

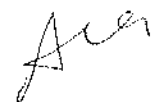


The issue in these appeals is allowability of Cenvat Credit on items like Shape section/MS Angle/Channel/Girder/plate (7208/7216), M.S. Column, H.R. Coils, H.R. Cobbler Plates, CR Sheets, Steel Bars, M.S. Bar, etc.

2. The brief facts are that the appellant is a sugar factory engaged in manufacture of Sugar and Molasses and

Chemicals. The appellant availed Cenvat Credit on inputs and capital goods. Show cause notices dated 22nd May, 2009 & 21.05.2010 were issued objecting to taking of Cenvat Credit during the month of April, 2008, amounting to Rs.15,42,426/- on items like M.S. Column, H.R. Coils, HR SS Plates, etc. further interest and penalty was also proposed. Further Shri. Amit Kumar Sharma DGM Commercial, was also required to show cause why penalty be not imposed under Rule 26 of Central Excise Rule, 2002.

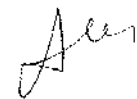
3. The SCN was adjudicated on contest vide Order-in-Original dated 29 October, 2010 passed by the Assistant Commissioner allowing credit of Rs. 60,798/- on items like M.S. Column, H.R. Coils, HR SS Plates, etc. Further, credit taken on M.S. Column, G.P. Coils, HR Sheets, etc., were disallowed amounting to Rs.14,81,628/- with further direction to pay interest and also penalty of Rs.14,81,628/- was imposed under Rule 15 of CCR read with section 11 AC of the Act. Penalty of Rs. 15,000/- (each order), totaling Rs.75,000/- was also imposed on Shri Amit Sharma, DGM Commercial. Being aggrieved the appellant preferred appeal before learned Commissioner (Appeals) who have been pleased to allow the appeal in part and have set aside the penalty imposed on the appellant company, observing that there is no contumacious conduct on the part of the



appellant and the issue is wholly interpretational in nature. However, the learned Commissioner did not interfere with the penalty imposed on the employee Shri Amit Kumar Sharma, finding that there is no separate appeal filed by him.

4. Being aggrieved the appellant company and the employee Shri Amit Kumar Sharma are before this Tribunal in appeal. The learned counsel for the appellant states that the learned Commissioner made factual errors in the order while observing that although the appellant produced the documents with regard to the use of the items in question, used in fabrication of various machinery with support of Chief Engineers/Chartered Engineers certificate, and failed to provide the name of the capital goods/parts of the capital goods which were fabricated out of the impugned items. The learned counsel points out from the reply to the show cause notice, that they had given the specific use of each and every item, disputed vide the show cause notice. So far the items in dispute before this Tribunal, she explains -

- (i) So far HR Coils/CR Sheet, Shape Section/MS Channel/Girder/plate (7208/7216), M.S. Bar/TOR Sheet (7214/7219), GC Sheets, Skelp were used in the fabrication of pipe line of Cooling Tower of 170 Ton Boiler.



- (ii) STD Unalloyed Cold Rolled Coil, Alloyed toughened corrugated CR sheet were used in the fabrication of DM plant tank, which is a part of 170 Ton Boiler.
- (iii) Alloyed toughened corrugated CR sheet, Alloyed Cold Rolled Part Coil were used in the fabrication of HCL tank of R.O. Plant.
- (iv) H.R. Coil/Cut Plate were used in the fabrication of cable clamp in the panel room of 80 M.W. Turbine.
- (v) M.S. Girder, Plate/Shape and Section, M.S. Channel, Unalloyed Cold Rolled Part Coil used in the fabrication of base and supporting structure of pumps and Motors of 170 Tons Boiler.
- (vi) Alloyed Cold Rolled Part Coil, Corrugated C.R. Sheet used in fabrication of base frame of F.D. fan of 170 Ton Boiler.
- (vii) A.C. Corrugated sheet were used in the bagasse handling system of 170 Tons Boiler. These Corrugated sheet were used to cover the rubber belt of bagasse handling system, through which bagasse (fuel) is fed in the furnace of 170 Tons Boiler cover is to save the bagasse from moisture and rain.

5. The learned Advocate further states that Explanation to Rule 2(k) of CCR provides that, input includes goods used in the manufacture of capital goods which are further used in the factory of the manufacturer, and in the



6. The Learned A.R. for the Revenue have relied on the impugned order.

(Dictated in Court)

-Sd/-

-Sd/-

प्रमाणित की/Certified True Copy

39. 4th St. NE, Room 2-1106
 39. 11. S. MARGALLA 9540-21106