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: 06/03/2018

To

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

Final Order No. A/70457/2018-EX[DB] dated 10/01/2018

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/51858/2014	**Dsm Sugar Mansurpur** P O Mansurpur 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, Advocate
82-MISSION COMPOUND,
SAHARANPUR,
UTTAR PRADESH
247001

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/51858/2014-EX[DB]

(Arising out of Order-in-Original No. 69/COMMR./MRT-I/2013 dated 10/12/2013 passed by Commissioner of Central Excise & Customs, Meerut-I)

M/s DSM Sugar, Mansurpur **Appellant**

Vs.

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

Appearance:

Shri Aalok Arora, Advocate for Appellant
Shri Gyanendra Kr. Tripathi, Asstt. Commissioner (AR), for Respondent

CORAM:

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

Date of Hearing : 10/01/2018
Date of Decision : 10/01/2018

FINAL ORDER NO-70457/2018

Per: Anil G. Shakkarwar

The present appeal is directed against Order-in-Original No. 69/COMMR./MRT-I/2013 dated 10/12/2013 passed by Commissioner of Central Excise & Customs, Meerut-I.

2. The short issue involved in the present appeal is whether amount under Sub-rule (3) of Rule 6 of Cenvat Credit Rules is recoverable on the quantum of electricity

generated within the sugar factory and supplied to State Power Corporation.

3. The appellants were manufacturer of sugar and molasses. They have captive power generation plant. Baggase was used for generation of electricity. Electricity was used within the factory and surplus ~~is~~ was supplied to State Power Corporation. Revenue has entertained a view that provisions of Sub-rule (3) of Rule 6 of Cenvat Credit Rules were not applicable and amount should be recovered out of the value of electricity. Therefore, a demand of Rs.64 lakhs was raised. It culminated into passing of impugned Order-in-Original.

4. Heard the parties and perused the records. Learned Counsel for appellant has relied on the precedent decision of this Tribunal in the case of M/s DSM Sugar Mills Ltd. Vs Commissioner of Central Excise, Meerut-I reported at 2014 (304) ELT 582 (Tri.-Del.).

5. After hearing both sides and on perusal of records, we find that this Tribunal in appellants own case has held in similar circumstances that no amount under the said Sub-rule (3) of Rule 6 of said Rules of the value of electricity supplied to State Power Corporation was

recoverable from the appellant in the case of M/s DSM Sugar Mills Ltd. Vs Commissioner of Central Excise, Meerut-I (supra). Since the issue is no more res-integra, by following the above stated precedent decision, we set aside the impugned Order-in-Original and allow the appeal filed by the appellant.

6. Accordingly, appeal filed by appellant is allowed.

(Dictated in Court)

Sd/-
(Archana Wadhawa)
Member (Judicial)

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

प्रमाणित प्रति/Certified True Copy
14/03/18

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

akp