CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE

REGIONAL BENCH - COURT NO. 1

Central Excise Appeal No. 744 of 2012

(Arising out of Order-in-Original No. 20/2011-Commr. dated 22.12.2011 passed by the Commissioner of Central Excise and Customs, Belgaum.)

Commissioner of Central Excise,
No.71, Club Road,
Belgaum.

Appellant(s)

VERSUS

M/s. Shree Renuka Sugars Ltd.,
Munoli,
Tq. Gokak,
Dist: Belgaum.

Respondent(s)

APPEARANCE:

Mr. H. Jayathirtha, Superintendent (AR), for the Appellant

Mr. Rahul Patil, Advocate, for the Respondent

CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R BHAGYA DEVI, MEMBER (TECHNICAL)

Final Order No. 20481 /2024

DATE OF HEARING: 05.06.2024
DATE OF DECISION: 05.06.2024

PER : DR. D.M. MISRA

This appeal is filed by the Revenue against Order-in-Original No.20/2011-Commr. dated 22.12.2011 passed by the Commissioner of Central Excise and Customs, Belgaum.

2. The respondents are engaged in the manufacture of sugar and molasses, denatured spirit etc. During the course of manufacture of finished products waste products viz. press-mud and spent wash emerge, which fall under Tariff item

No.31010099 attracting nil rate of duty, which in turn used in the manufacture of compost manure. Alleging that the appellant has not complied with Rule 6 of the Cenvat Credit Rules, 2004 during the period January 200 to March 2006 and for April 2010 to January 2011 by maintaining separate records, 10% / 5% of the sale value of the compost manure has been demanded by issuing show-cause notices date. 20/01/2011 and dt. 19.04.2011. on adjudication, the demand was dropped by the Commissioner. Hence, the present appeal by the Revenue.

3. Heard both sides and perused the records.

4. We find that the issue of recovery of 5% / 10% on the value of compost manure manufactured out of fresh mud and spent wash, which are waste products generated during the course of manufacture of excisable goods applying Rule 6 of Cenvat Credit Rules, 2004, is no more *res integra*. The issue is covered by the judgment of this Tribunal in the case of ***Shri Sidheswar SSK Ltd***. [2014(309) ELT 495 (Tri. Mum,.)], where the Tribunal observed as under:-

> ***"6.*** *This Tribunal considered the very same matter in the case of Commissioner of Central Excise, Pune-II v. DY Patil SSK Ltd. & Ors. - 2014-TIOL-475-CESTAT-MUM and held that the waste products arising in the course of manufacture of sugar such as bagasse and compost fertilizer, cannot be considered as final products, and, therefore, payment of a sum equal to 10%/5% of the price of the goods is not required to be made in terms of Rule 6(3) of the Cenvat Credit Rules, 2004. The said decision was based on the decision of the Hon'ble High Court of Allahabad in the case of Balrampur Chini Mills Ltd. v. Union of India - 2013-TIOL-557-ALL-CX = 2014*

> *(300) E.L.T. 372 (All.); and of this Tribunal in the case of Indian Potash Ltd. v. Commissioner of Central Excise, Allahabad - 2012-TIOL-1402-CESTAT-DEL = 2012 (281) E.L.T. 622 (Tri.-Del.) and ECO Sugar Energy Ltd. - 2013-TIOL-288-CESTAT-MUM. Ratio of these decisions applies squarely to the facts of the present case. Accordingly, we set aside the impugned order confirming the payment of a sum of ` 2,01,087/- under Rule 6 of the Cenvat Credit Rules, 2004 and allow the appeal with consequential relief, if any, in accordance with law. The Miscellaneous Application also stands disposed of."*

5. Also, we find that the Hon'ble Supreme Court in the case of ***UOI Vs. DSCL Sugar Ltd***. [2015(322) ELT 769 (SC)] held that Rule 6 of the Cenvat Credit Rules, 2004 is not applicable to Bagasse, a waste product generated during the course of manufacture of excisable goods.

6. In view of the above, we do not find merit in the appeal filed by the Revenue. Consequently, the impugned order is upheld and Revenue's appeal is dismissed.

(Order dictated and pronounced in Open Court.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R BHAGYA DEVI)
MEMBER (TECHNICAL)

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