

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

**Central Excise Appeal No. 20402 of 2025
Central Excise Early Hearing Application No.20556 of 2025**

(Arising out of Order-in-Appeal No.260/2024-25CT dated 30.09.2024
passed by the Commissioner of Central Tax (Appeals-II), Bengaluru.)

**M/s. Davangere Sugar
Company Limited,**
Kukkuwada, Davangere District,
Karnataka – 577 525.

Appellant(s)

VERSUS

**The Commissioner of Central
Taxes,**
North-West Commissionerate,
2nd Floor, South Wing, BMTB Bus Stand
Complex,
Shivajinagar, Bengaluru – 560 051.

Respondent(s)

APPEARANCE:

Ms. Lakshmi G.K., Chartered Accountant for the Appellant

Mr. Maneesh Akhoury, Asst. Commissioner (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MR PULLELA NAGESWARA RAO,
MEMBER (TECHNICAL)**

Final Order No. 22116 /2025

DATE OF HEARING: 12.11.2025

DATE OF DECISION: 12.11.2025

PER : DR. D.M. MISRA

This miscellaneous application has been filed by the appellant for early hearing of the appeal on the ground that the issue involved is settled in favour of the appellant by the judgment of this Tribunal. Learned AR for the Revenue has no objection. After allowing the early hearing application, with consent of both sides, we proceed to take up the appeal itself for hearing and disposal since it involved in a very narrow compass.

2. This appeal is filed against Order-in-Appeal No.260/2024-25CT dated 30.09.2024 passed by the Commissioner of Central Taxes (Appeals), Bengaluru.

3. Briefly stated the facts of the case are that the appellant are engaged in the manufacture of sugar falling under Chapter sub-heading 17011190 and molasses falling under Chapter sub-heading No. 23032000 of Central Excise Tariff Act, 1985. During the course of manufacturing of sugar, bagasse emerges as a by-product which is exempted and used in the factory for generation of electricity. The excess power generated is transmitted to various power distribution companies. Alleging that the appellant had not followed the provisions of Rule 6 of Cenvat Credit Rules, 2004 as they had utilised cenvat credit on inputs and input services used in the manufacture of dutiable final product sugar and molasses and also exempted products, show-cause notices were issued to them for recovery of an amount of Rs.1,91,72,099/- for the period from March 2015 to June 2017. On adjudication, the demands were confirmed with interest and penalty. Aggrieved by the said order, they filed appeal before the learned Commissioner(Appeals) who in turn rejected their appeal. Hence, the present appeal.

4. At the outset, the learned Chartered Accountant submits that the issue is squarely covered by the judgment of this Tribunal in the case Shri Hiranyakeshi SSK Niyamit and others Vs. CCE, Belgaum [Final Order No.20388 – 20401/2024 dated 18.03.2024 – CESTAT, Bangalore], wherein the Tribunal following the judgment in cases of UOI Vs. DSCL Sugars Ltd. [2015(322) ELT 769 (SC)] and Shree Doodhganga Krishna Sahakari Sakkare Karkhane Niyamit [Final Order No.21104-21105/2023 dated 18.09.2023], allowed the appeals of the

assessee therein. Learned AR for the Revenue reiterates the findings of the learned Commissioner(Appeals).

5. After hearing both sides and perusal of the records, we find that the issue is no more res integra and has been settled in favour of the assessee by a series of judgments. This Tribunal in the case of Shri Hiranyakeshi SSK Niyamit and others (supra), held as follows:-

7. The short issue involved in the present appeals for consideration is, whether 6% of the value of the electricity sold, generated out of by-product/waste product viz. bagasse be subjected to demand under Rule 6(3)(i) of the CENVAT Credit Rules, 2004. This Tribunal in the case of **Shree Doodhganga Krishna Sahakari Sakkare Karkhane Niyamit** (supra) has considered the issue and taking note of the judgment of the Hon'ble Supreme Court in the case of **UOI Vs. DSCL Sugars Ltd.** (supra) and the Board's Circular No.1084/05/2022-CX dt. 07/07/2022, held that demand of 6% of the value of electricity sold cannot be sustained. Following the aforesaid order of this Tribunal and also the judgment of the jurisdictional High Court in **Shamnur Sugars Limited's** case (supra), the impugned orders are set aside and the appeals are allowed with consequential relief to the appellants, if any, as per law.

6. Following the same, the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law. Miscellaneous application also gets disposed of.

(Order pronounced and dictated in Open Court)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Raja...