

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 253 of 2016

[Arising out of Order-in-Appeal No. DLI-EXCUS-001-APP-049-15-16 dated 29.02.2016 passed by the Commissioner (Appeals), Central Excise & Service Tax, New Delhi]

M/s Shahabad Co-op Sugar Mills Ltd.

Ladwa Road, Shahabad Markanda,
Haryana-136135

.....Appellant

VERSUS

**Commissioner of Central Excise & Service
Tax, Panchkula**

SCO 407-408, Sector-8, Panchkula-134119

.....Respondent

APPEARANCE:

Shri Sagar Verma and Ms. Diksha Verma, Advocates for the Appellant

Shri Narinder Singh, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61694/2025

DATE OF HEARING: 07.11.2025

DATE OF DECISION: 20.11.2025

P. ANJANI KUMAR:

The appellant, M/s The Shahabad Co-operative Sugar Mills Ltd, are a cooperative sugar mill. On the basis of conducting of an audit, a show cause notice dated 12.09.2013, demanding service tax of Rs.17,21,846/-, under the category of Business Auxiliary Service on the amounts received by them, during 2008-09 to 2012-13,

being the premium against transfer of sugar export quota allotted by the Directorate of Sugar, Government of India; the proposals in the show cause notice were confirmed by the OIO dated 13.03.2014 and were confirmed by the impugned order dated 29.02.2016.

2. Shri Sagar Verma, learned Counsel for the appellants, submits that the transaction and the commission involved thereof pertains to export of sugar and not connected to any service; it represents transfer of right and privilege granted to the sugar mills. He further submits that the issue is no longer *res integra* having been decided by the Tribunal in the cases of Bajaj Hindustan Sugar Ltd. – 2018 (8) GSTL 403 (Tri. All.) and UNN Sugar Complex – 2019 (370) ELT 896 (Tri. All.)

3. Shri Narinder Singh, learned Authorized Representative for the Revenue reiterates the findings of the impugned order.

4. Heard both sides and perused the records of the case. We find that Tribunal in the case of UNN Sugar Complex (*supra*) held as follows:

3. We find from the impugned Order-in-Appeal that the Learned Commissioner (Appeals) have placed reliance on the ruling of Hon'ble Supreme Court in *Vikas Sales Corporation and Another v. Commissioner of Commercial Taxes*, (1996) 4 SCC 433 = [2017 \(354\) E.L.T. 6](#) (S.C.), wherein the issue before the Court was whether the transfer of REP licence/Exim scrips by the holder thereof to another person constitutes a sale of goods within the meaning of, or for purposes of the sales tax enactment of Tamil Nadu, Karnataka and Kerala. The Hon'ble Supreme Court relying on the definition of goods as defined in clause (d) of Section 2 of the Central Sales Tax Act, 1956, which defines goods as - goods includes all materials, articles, commodities and all other kinds of movable property, but does not include newspapers, actionable claims, stocks, shares and securities, "what is relevant to note is that this

definition is not only inclusive in nature, but takes in all kinds of movable property. It excludes from its ambit certain items, but for such exclusion may have fallen within the ambit of the said definition." It was further held that the licenses have a value of its own. It is by itself a property and it is for this reason that it is freely bought and sold in the market, for all purposes and intent, it is goods. Unrelated to the goods which can be imported on its basis, this commands a value and is treated as such. This is because it enables its holder to import goods which he cannot do otherwise.

4. The said ruling was again followed by a full Bench of Hon'ble Supreme Court in *Yasha Overseas v. Commissioner of Sales Tax and Others*, along with other appeals, reported in (2008) 8 SCC 681 = [2015 \(322\) E.L.T. 7](#) (S.C.), wherein the Hon'ble Supreme Court was considering the ruling in the case of *Vikas Sales Corporation v. CCT*, by the earlier Bench holding that the transfer of an import licence called as REP licence granted under the 1992-1997 Exim policy was exigible to sales tax, is impliedly overruled by the Constitution Bench decision in *M/s. Sunrise Associates v. Government of NCT of Delhi* that held that lottery tickets were actionable claims and were, therefore, excluded from the definition of goods under the Sales Tax Act and hence the sale of lottery tickets was not subject to sales tax, and the earlier Two Bench decision in the case of *H. Anraj v. Government of Tamil Nadu* holding otherwise, did not lay down the correct legal position?

5. The Hon'ble Supreme Court have made the following observations :-

"We are afraid, we find the submission unacceptable. We are unable to see DEPB either as a debt or as a beneficial interest in movable property not in possession of the claimant. To us it is plain that DEPB like REP licence has its own intrinsic value and the purchaser, on payment of consideration, buys something for its value. DEPB credit is thus clearly "goods" within the meaning of sales tax laws and its sale is clearly exigible to tax.

We may observe here, if DEPB (or for that matter REP licence!) has to be compared with a lottery ticket, it can only be compared with a lottery ticket that has won the prize. The prize-winning lottery ticket ceases to be a mere piece of paper having

no value itself. It acquires inherent value and becomes itself a thing of value. Imagine a situation where prize-winning lottery tickets are freely available for sale. (As a matter of fact, clandestine sale of the prize-winning lottery ticket for conversion of black money into white is not completely unknown!) In buying the prize-winning lottery ticket the purchaser would pay the consideration for the value that the piece of paper has acquired and in that situation we fail to see how that ticket can be described as anything else but "goods". If any more analogies are to be given one might compare DEPB with prepaid meal tickets or prepaid petrol coupons or accumulated flying miles. A meal ticket, a petrol coupon or flying miles credit has its own intrinsic value. If permitted free transferability those would soon become market commodities and would be sold and bought for their value as "goods".

In light of the discussions made above, the two questions framed at the beginning of the judgment are to be answered as follows : The Constitution Bench decision in *Sunrise* does not alter the position in regard to levy of tax on sale of REP licence and on that issue the three-Judge Bench decision in *Vikas* continues to hold the field.

DEPB has an intrinsic value that makes it a market commodity. Therefore, DEPB, like REP licence qualifies as "goods" within the meaning of the sales tax laws of Delhi, Kerala and Mumbai and its sale is exigible to tax.

We thus find no merit in any of these appeals. All appeals are dismissed but with no order as to costs."

6. Having considered the rival contentions and in view of the ruling of Hon'ble Supreme Court in the case of *Vikas Sales Corporation* (supra), which have been reaffirmed by the Hon'ble Supreme Court in *Yasha Overseas and Others* (supra), I hold that the transaction in question regarding sale of rights and privilege of export of sugar quota is sale of goods and no service is involved. Accordingly, I dismiss this appeal and confirm the Order-in-Appeal.

5. In view of the above, we find that the issue stands settled in favour of the appellants. Accordingly, the appeal is allowed.

(Order pronounced in the open court on 20/11/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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