CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

REGIONAL BENCH – COURT NO.407

Excise Appeal No. 89360 of 2018

(Arising out of Order-in-Appeal No. NGP-II/APPL/16/2017-18 dated 19.03.2018 passed by the Commissioner (Appeals), Central Tax, Nagpur-II)

M/s Samarth S.S.K. Ltd. ....Appellant
Unit-2, Tirthpuri, Tal. Ghansawangi,
Dist. Jalana, Maharashtra

VERSUS

C.C.E. & S.T., Nagpur ....Respondent
P.O. Box 81,, Telangkhedi Road...
Civil Lines,
Nagpur,, Maharashtra-440001

APPERANCE:

Shri J.N. Somaiya, Advocate for the Appellant
Shri S.K. Hatangadi, Asst. Commissioner Authorised Representative for the Respondent

CORAM:

HON'BLE SMT. ARCHANA WADHWA, MEMBER (JUDICIAL)

FINAL ORDER NO. A/86668 / 2019

Date of Hearing: 17.09.2019
Date of Decision:17.09.2019

PER: ARCHANA WADHWA

After hearing both the sides I find that the appellant is engaged in the manufacture of Sugar and Molasses, during the course of which Bagasse and Press Mud emerges. As the appellant was availing the benefit of the Cenvat Credit of duty paid on various inputs and input services, Revenue entertained a view that they are required to reverse the proportionate credit relatable to Bagasse and Press Mud which were cleared at nil rate of duty, in terms of the amendment Rules 6(3) of Cenvat Credit Rules, 3.

2. Accordingly, a show-cause notice dated 18/04/2016 was issued to the appellant raising the demand of Rs. 15,54,992/- for the period April, 2015 to January, 2016. The original adjudicating authority by taking note of the explanation added to Rule (6) laying down that the non-excisable goods have to be treated as exempted goods requiring reversal of proportionate Cenvat credit, confirmed the demand alongwith confirmation of interest and imposition of penalty to the extent of 10% of the duty in terms of the provisions of Rule 15(1) of the Cenvat Credit Rules, 2004. The said order of original authority stand upheld by Commissioner (Appeals) and hence the present appeal.

3. After hearing both the sides deal represented by Shri J.N. Somaiya, Advocate for the Appellant and Shri S.K. Hatangadi, Asst. Commissioner Authorised Representative for the Respondent I find that the issue is no more *res integra* and stand settled by various decisions of the Tribunal. Reference can be made to Tribunal decision in the case of *CCE V/s. Bajaj Hindustan Sugars Ltd., 2019(5) TMI-1665* as also in the case *of Simholi Sugar Ltd. V/s. CCE, 2018(8) TMI-160*. Apart from various Tribunal decisions laying down that even after the introduction of explanation to Rule 6, there would not be any requirement to reverse any credit inasmuch as Bagasse and Press Mud etc. cannot be held to be result of manufacturing activities, I find that the Hon'ble Allahabad High Court in the case *of Balarampur Chini Mills Ltd. V/s. UOI, 2019(5) TMI-972(All.).* has

dealt with the said issue and has struck down the said amendment in Rule 6 and has held that the Revenue's circular dated 25/04/2016 treating Bagasse as an exempted goods for the purpose of reversal of credit inputs is not proper and accordingly stands quashed.

4. In view forgoing, I set aside the impugned order and allow the appeal with consequential relief to the Appellant.

(Order pronounced in the open Court)

(Archana Wadhwa)
Member (Judicial)

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