CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Excise Appeal No. 85155 of 2018

[Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-0527/2017-18 dated 30.10.2017 passed by the Commissioner of Central Tax (Appeals-I), Pune-I]

Bhimashankar SSK Ltd. **.... Appellant**
Dattatraynagar, Post Pargaon,
Via Awasari Bk, Tal. Ambegaon,
Dist. Pune

Versus

Commissioner of Central Excise & S.T., Pune-I **.... Respondent**
GST Bhavan, Sassoon Road, Pune 411 001.

APPEARANCE:

Shri J.N. Somaiya, Advocate for the Appellant

Shri Tanuj Bisht, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 85836/2026

Date of Hearing: 01.06.2026
Date of Decision: 01.06.2026

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellant is engaged *inter alia*, in the manufacture of sugar in its factory located at Ambegaon, Pune. Sugar is an excisable item and is liable for payment of central excise duty. During the course of manufacture of sugar, bagasse and press mud emerged as the byproducts, which the appellant sold for a consideration, without payment of central excise duty. Non-payment of central excise duty on bagasse and press mud during the disputed period, was objected to by the department on the ground that those are exempted products and as such, the appellant was required to follow the procedures laid down under Rule 6 of the CENVAT Credit Rules, 2004. The matter arising out of the present dispute was adjudicated vide order dated 20.01.2017, wherein the original authority had confirmed the demand of CENVAT credit along with interest and also imposed

penalty on the appellant. On appeal against the said adjudication order dated 20.01.2017, the learned Commissioner (Appeals) vide the impugned order dated 30.10.2017 has upheld confirmation of the adjudged demands and rejected the appeal filed by the appellant. Feeling aggrieved with the impugned order dated 30.10.2017, the appellant has filed the present appeal before the Tribunal.

3. The issue, whether 'bagasse' and 'press mud' should be considered as the exempted products in order to fall within the purview of Rule 6 *ibid*, was the subject matter of dispute before the Hon'ble Supreme Court in the case of *Union of India vs. DSCL Sugar Ltd. [2015 (322) ELT 769 (S.C.)]* and *Union of India vs. Indian Sucrose Ltd. [SLP (C) No. 1700/2021]*. Upon examination of the nature of emergence of those products, the Hon'ble Supreme Court has held that bagasse is non-excisable and as such, Rule 6 of the CENVAT Credit Rules, 2004 shall not have any application for confirmation of the demand. We find that on the basis of the said judgment delivered by the Hon'ble Supreme Court, the Central Board of Indirect Tax & Customs in Circular No.1084/05/2022-CX dated 07.07.2022 has withdrawn the earlier circular dated 25.04.2016, holding that bagasse is not an excisable commodity. The relevant paragraphs of the said circular dated 25.04.2016 are extracted below:

> *"Excisability of bagasse and similar other by-products or waste arising during the course of manufacture of an excisable product has been brought to the attention of the Board.*
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> *2. It may be recalled that rule 6 of the CENVAT Credit Rules, 2004 was amended with effect from 1.03.2015 by inserting Explanation 1 and 2 in sub-rule (1) of rule 6, which provides that exempted goods or final product shall include non-excisable goods cleared for consideration from the factory.*
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> *3. Accordingly, Circular No. 1027/15/2016-CX dated 25.04.2016 was issued highlighting that Bagasse, Dross and Skimmings of non-ferrous metals or any such by-product or waste, which are non-excisable goods and are cleared for a consideration from the factory need to be treated like exempted goods for the purpose of reversal of credit of input and input services, in terms of rule 6 of the CENVAT Credit Rules, 2004. This circular was issued in the background of judgement of the Hon'ble Supreme Court in the case of Union of India Vs. M/s. DSCL Sugar Ltd [2015 (322) E.L.T. 769 (S.C.)] holding that Bagasse is only an agricultural waste and residue and it is not a result of any process which can be termed as manufacture', Similar conclusion was also drawn by the Hon'ble High Court of Bombay in the case of M/s Hindalco Industries Ltd. Vs. Union of India (2015 (315) E.L.T.10 (Bom.)] in relation to dross and skimming of aluminium, zinc or other non-ferrous metals.*

> *4. The issue again came before the Hon'ble Supreme court in the case of Union of India Vs. M/s. Indian Sucrose Limited [SLP (C) No. 1700/2021], wherein the Hon'ble Supreme Court vide its judgement dated 04.03.2022, referred to its observations in the Union of India vs. M/s. DSCL Sugar ltd & Ors. (supra) holding that Bagasse is non-excisable to which the CENVAT Credit Rules have no application, and held that the Circular dated 25.04.2016 is unsustainable in law.*
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> *5. In light of the above judgement, Circular No. 1027/15/2016-CX dated 25.04.2016 has become non-est and is hereby rescinded. Cases kept in Call Book on the above issue, if any, may be taken out and adjudicated in light of the law decided by the Apex Court."*

4. In view of above legal position, we do not find any merits in the impugned order dated 30.10.2017 passed by the learned Commissioner (Appeals), in upholding confirmation of the adjudged demands on the appellant. Therefore, the impugned order is set aside and the appeal is allowed in favour of the appellant.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

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