## CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## MUMBAI

REGIONAL BENCH - COURT NO. 2

### Excise Appeal No. 86278 of 2019

[Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/501-502/18-19 dated 13.02.2019 passed by the Commissioner (Appeals), GST & Central Excise, Nagpur.]

**Manas Agro Industries & Infrastructure Ltd.** .... **Appellant**
(Formerly known as M/s Wainganga Sugar & Power Ltd.)
Unit 4, Devhada, Tashil Mohadi
District Bhandara
Maharashtra – 441 913.

Versus

**Commissioner of CGST & Central Excise** .... **Respondent**
Nagpur-I CGST Commissionerate
GST Bhawan, P.O. Box No.81, Telangkhedi Road
Civil Lines, Nagpur – 440 001.

**WITH**

### Excise Appeal No. 86279 of 2019

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**Manas Agro Industries & Infrastructure Ltd.** .... **Appellant**
(Formerly known as M/s Wainganga Sugar & Power Ltd.)
Unit 4, Devhada, Tashil Mohadi
District Bhandara
Maharashtra – 441 913.

Versus

**Commissioner of CGST & Central Excise** .... **Respondent**
Nagpur-I CGST Commissionerate
GST Bhawan, P.O. Box No.81, Telangkhedi Road
Civil Lines, Nagpur – 440 001.

**AND**

### Excise Appeal No. 87877 of 2019

[Arising out of Order-in-Appeal No. NGP/EXCUS/000/APPL/053/19-20 dated 28.06.2019 passed by the Commissioner (Appeals), GST & Central Excise, Nagpur.]

**Manas Agro Industries & Infrastructure Ltd.** .... **Appellant**
(Formerly known as M/s Wainganga Sugar & Power Ltd.)
Unit 4, Devhada, Tashil Mohadi
District Bhandara
Maharashtra – 441 913.

Versus

**Commissioner of CGST & Central Excise** .... **Respondent**
Nagpur-I CGST Commissionerate
GST Bhawan, P.O. Box No.81, Telangkhedi Road
Civil Lines, Nagpur – 440 001.

<u>Appearance:</u>

Shri Rajesh Ostwal along with Ms. Sikha Suman, Advocates for the Appellant

Shri A.K. Shrivastava, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)**
**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/86171-86173/2026**

Date of Hearing: 21.08.2026
Date of Decision: 22.09.2026

**Per: M.M. PARTHIBAN**

These appeals have been filed by M/s Manas Agro Industries & Infrastructure Limited, having their factory at Devhada, Tashil Mohadi, District Bhandara and Registered office at 5thFloor, Gupta Tower, Civil Lines, Nagpur (herein after, referred to as "the appellants", for short) assailing the Order-in-Appeal No. NGP/EXCUS/000/APPL/501-502/18-19 dated 13.02.2019 (herein after, referred to as "the first impugned order") and Order-in-Appeal No. NGP/EXCUS/000/APPL/053/19-20 dated 28.06.2019 (herein after, referred to as "the second impugned order", and both together referred to as "impugned orders") passed by the Commissioner (Appeals), GST & Central Excise, Nagpur.

2.1 Brief facts of the case, leading to these appeals, are summarized herein below:

2.2 The appellants herein are engaged *inter alia*, in manufacture sugar, molasses, denatured ethyl alcohol and other products falling under Chapters 17 and 22 of the First Schedule to the Central Excise Tariff Act. 1985. For the purpose payment of Central Excise duty on final products and for compliance with Central Excise Statute, the appellants are duly registered with the jurisdictional Central Excise authorities holding registration No. AADCV1242MEM001. The appellants avail CENVAT credit of central excise duty paid on inputs, capital goods and of service tax paid on input services for utilizing the same towards payment of central excise duty on final products.

2.3 In the manufacturing process of the aforesaid final products, the raw material sugar cane is crushed which results into four types of products viz., (i) Sugar Juice (ii) Molasses (iii) Bagasse and (iv) Press Mud.

Sugarcane juice and molasses are subjected to further processing to obtain final products viz., sugar and other distillery products. Bagasse is waste generated during the above manufacturing activity. The impurities in the form of sludge which are taken out of the sugarcane juice during the course of filtration/ purification are referred to as 'press-mud'. The impurities which is taken out while processing the molasses in referred to as "spent wash'. Press mud so generated is deposited in a compost pit and spent wash is added to the same. The mixture is left as such for few days and thereafter this result as organic manure, which are sold in bags of 40 to 50 kgs. without payment of any central excise duty, on the understanding that these are waste products and are not chargeable to central excise duty. As the appellants did not maintain separate accounts of common inputs and input services towards dutiable final products and exempted/non dutiable final products such as 'organic waste', as envisaged in Rule 6(2) of the Rules of 2004, the department had interpreted that the appellants are required to reverse the CENVAT credit for an amount attributable to 6% of the value of exempted goods cleared by them under Rule 6(3)(i) of the Rules of 2004.

2.4 Accordingly, the department had initiated show cause proceedings for recovery of central excise duty on the clearances of such organic manure during the periods (i) 01.03.2015 to 31.03.2016 for an amount of Rs.94,09,369/-; (ii) 01.04.2016 to 31.03.2017 for an amount of Rs.78,32,372/-; and (iii) 01.07.2016 to 30.06.2017 for an amount of Rs.23,88,504/- vide Show Cause Notices (SCNs) dated 29.01.2018, 05.04.2018 and 06.09.2018, respectively. In adjudication of the aforesaid SCNs issued for the above duty demands, the original authority i.e., Joint/ Additional Commissioner vide Orders-in-Original dated 31.08.2018 and 23.01.2019 had confirmed the total central excise duty demand for an amount of Rs.1,96,30,245/- under Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11A(1) of the Central Excise Act, 1944 along with interest; and imposed penalty for an amount equal to such duty under Section 11AC ibid. Being aggrieved with the orders of the original authority, the appellants have preferred two separate appeals before the Commissioner (Appeals). In the impugned orders dated 13.02.2019 and 28.06.2019, learned Commissioner (Appeals) has upheld the order of the original authority and rejected the appeals filed by the appellants. Feeling aggrieved with the impugned orders, the appellants have preferred these appeals before the Tribunal.

3. Learned Counsel appearing for the appellants submitted that the very same issue which is disputed in the present appeals, have been examined by various Co-ordinate Benches of the Tribunal in a number of cases and the issue has been decided in their favour in the following cases:

(i) *Perti Power Sugar Limited Vs. Commissioner of CGST & Central Excise, Nagpur* – Final Order No. A/85817/2026 dated 13.05.2026;

(ii) *Balrampur Chini Mills Limited Vs. Union of India* – 2014 (300) E.L.T. 372 (All.);

(iii) *Union of India Vs. DSCL Sugar Ltd.* – 2015 (322) E.L.T. 769 (S.C.);

(iv) *Rallis India Limited Vs. Union of India* – 2009 (233) E.L.T. 301 (Bom.)

(v) *Bhaurao Chavan SSK Ltd. Vs. Commissioner of CGST and Central Excise, Aurangabad* – (2023) 10 Centax 37 (Tri. - Bom.).

Hence, they pleaded that the impugned order is not legally sustainable and consequently no penalty is imposable on the appellants.

4. Learned Authorised Representative (AR) for Revenue reiterated the findings in the impugned order.

5. Heard both sides and perused the records of the case. We have also examined the submissions advanced by learned Counsel appearing for the appellant and the learned Authorized Representative of the Department.

6. The issue involved in this appeal is to examine whether the appellants are required to pay the CENVAT demands in respect of clearances of organic manure without payment of central excise duty; and whether upholding of confirmation of adjudged demands in the impugned orders are legally sustainable.

7. Both sides agree that the issue arising out of the present dispute have already been decided in favour of the appellants in a number of cases by the Tribunal. We note that in all the decisions which have been relied upon by the learned counsel, a consistent view has been taken that bagasse, press mud or boiler ash, organic waste which emerges as a waste/by-product, falls outside the scope of Rule 6 ibid. The amendment in Rule 6 might have the effect of treating the by-product to be exempted goods, but it cannot result in treating them as being manufactured goods, as the nature of bagasse or press mud or boiler ash, organic waste remains that

of a waste/residue and is not in effect 'a final product'. More specifically, in case of *Gujarat Mineral Development Corporation Ltd. Vs. CCE&ST, Vadodara-II* - 2022(58) GSTL 49 (Tri. - Ahmd). it has been held that once it is established that the product in question is a by-product then it is settled that in respect of by-product demand under Rule 6 ibid will not sustain.

8.1 The findings of the Co-ordinate Bench of the Tribunal in the case of *Purti Power Sugar Ltd.* (supra), involving identical set of facts are as follows:

> *"4. We find that the issue arising out of the present dispute is no more res integra, in view of the Final Order No. A/85667/2019 dated 03.04.2019 passed by the co-ordinate Bench of the Tribunal, in the case of the appellants themselves. While allowing the appeal in favour of the appellants, the Tribunal has relied upon the judgement of the Hon'ble Bombay High Court in the case of Rallis India Limited Vs. Union of India - 2009 (233) ELT 301 (Bom.), to hold that in case of emergence of the by-product, the provision of Rule 6(3) of the CENVAT Credit Rules, 2004 shall not be applicable. Emergence of by-product during the course of manufacture of the main product should not be covered under the purview of Rule 6(3) of the CENVAT Credit Rules, 2004 for payment of amount as stated therein. The relevant paragraphs recorded in the order dated 03.04.2019 (supra) are quoted herein below:-*
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> > *"7. Also we find that the Hon'ble Supreme Court in Union of India v. DSCL Sugar Ltd [2015 (332) ELT 769 (SC)], after analyzing the provision of Section 2(d) and Section 2(f) of Central Excise Act, 1944, post amendment, observed as under:*
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> > > *"9. The Revenue sought to cover the case under sub-clause (ii) as per which the process which is satisfied in relation to any goods in the Section or Chapter notices of the First Schedule to the Central Excise Tariff Act, 1985 would amount to 'manufacture'. Here again, fiction is created by including those goods as amounting to manufacture in respect of which process is specified in the Section or Chapter notices of the First Schedule.*
> > >
> > > *10. In the present case it could not be pointed out as to whether any process in respect of Bagasse has been specified either in the Section or in the Chapter notice. In the absence thereof this deeming provision cannot be attracted. Otherwise, it is not in dispute that Bagasse is only an agricultural waste and residue, which itself is not the result of any process. Therefore, it cannot be treated as falling within the definition of Section 2(f) of the Act and the absence of manufacture, there cannot be any excise duty."*
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> > *8. In the present case organic manure emerges by physical mixing out of two byproducts viz. press mud and spent wash, hence, the aforesaid judgment is squarely applicable to the facts of the present case."*
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> *5. In view of the forgoing discussions, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the adjudged demand on the appellants. Therefore, the impugned order is set aside and appeal is allowed in favour of the appellants."*

8.2 We further find that the Tribunal has held in the case of *Bhaurao Chavan SSK Ltd.* (supra) that press mud, bagasse, boiler ash and sludge which emerges as waste or by-product in the manufacture of sugar, fall outside the purview of Rule 6 of the Rules of 2004. The relevant paragraphs of the said order is quoted below:

*4…..An identical issue had arisen in the matter of Purna Sahakari Sakhar Karkhana Ltd. vs. Commr. CGST& CE, Aurangabad; 2022 (12) TMI 6-CESTAT Mumbai in which this Tribunal allowed the appeal filed by the assessee therein. The relevant paragraphs of the said decision are reproduced as under:-…..…*

*10. Provisions of Rule 6(3) ibid are applicable only when a manufacturer is engaged in the manufacture of any final product which is chargeable to duty as well as any other final product which is exempted from whole of duty or chargeable Nil rate of duty using Cenvat inputs. But here the manufacturer i.e. appellant here is not manufacturing bagasse or press mud or boiler ash. These are by-products only and merely emerge as waste or residue while manufacturing sugar and molasses from sugar cane. None of the by-products falls within the definition of manufacture and in its absence nothing can be demanded from the appellant. It is not the case anywhere that after the amendment on 1.3.2015 by-products/ waste/residue have been included in the definition of 'manufacture' and therefore in my view the provisions of amended Rule 6(3) or Rule 6(2) ibid has no application and resultantly the demand raised by the revenue cannot sustain."*

*5. In view of the above, the issue involved herein is no more res integra and has been settled in favour of the assessee. Now I will deal with the circular dated 25.4.2016 (supra), which has been heavily relied upon by the authorities below in confirming the demand against the appellant. According to learned counsel the said circular has been treated as non est by subsequent circular dated 7.7.2022 a copy of which has also been placed on record. I have gone through the same and it is clear that the said circular i.e. circular dated 25.4.2016 has been rescinded by another circular being No.1084/05/2022-CX, dated 7.7.2022 issued by Central Board of Indirect Tax & Customs (CBIC) in view of the decision of the Hon'ble Supreme Court in the matter of Union of India vs. M/s. Indian Sucrose Limited vide order dated 4.3.2022 in S.L.P. (C) No. 1700 of 2021 by which the Hon'ble Supreme Court dismissed the Special Leave Petition filed by Union of India. The relevant portion of the said order of Hon'ble Supreme Court is reproduced hereunder:-*

*"Heard the learned counsel for the parties. In view of the judgment of this Court in Union of India vs. M/s. DSCL Sugar Ltd. & Ors. reported in 2015 (322) ELT 769 holding Bagasse to be non-excisable to which the Cenvat Credit Rules had no application, the circular dated 25.04.2016 is unsustainable in law.*

*The special leave petition is, therefore, dismissed."*

*6. Therefore following the law laid down by the Hon'ble Supreme Court in the matter of M/s DSCL Sugar Ltd. (supra) and the decision of this Tribunal in the matter of Purna Sahakari Sakhar Karkhana Ltd. (supra) coupled with the fact that the circular dated 25.4.2016 (supra) has already been rescinded, I am of the view that press mud, bagasse, boiler ash and sludge which emerged as waste or byproduct, fall outside the purview of Rule 6 ibid. Accordingly the impugned order is set aside and the Appeal filed by the Appellant is allowed with consequential relief, if any."*

9. In view of the settled legal position affirmed by the Hon'ble Supreme Court, we find that the issue arising out of the present dispute is no more *res integra.* Accordingly, we do not find any merits in the impugned orders dated 13.02.2019 and 28.06.2019, passed by the learned Commissioner (Appeals), in upholding confirmation of the adjudged demands on the appellants and consequently, we set aside the same.

10. In the result, the impugned orders passed by the learned Commissioner (Appeals) are set aside and the appeals filed by the appellants are allowed in their favour.

(Order pronounced in open court on 22.09.2026)

**(AJAY SHARMA)**
**MEMBER (JUDICIAL)**

**(M.M. PARTHIBAN)**
**MEMBER (TECHNICAL)**

*Sinha*