Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

Excise Appeal No. 10575 of 2019 - DB

(Arising out of OIA-CCESA-SRT-APPEAL-PS-652-2018-19 dated 11/12/2018 passed by Commissioner (Appeals) Commissioner of Central Excise, Customs and Service Tax-SURAT-I)

Shri Mahuva Pradesh ....**Appellant**
Shakari Khand Udyog Mandal Ltd
At And Po Factory Site Bamania Tal Mahuva
SURAT, GUJARAT

VERSUS

Commissioner of C.E. & S.T.-Surat-i ......**Respondent**
NEW BUILDING...OPP. GANDHI BAUG,
CHOWK BAZAR,
SURAT,GUJARAT-395001

APPEARANCE:
Shri Devashish K Trivedi, Advocate, appeared for the Appellant
Shri Anand Kumar, Superintendent (AR) appeared for the Respondent

CORAM: HON'BLE MEMBER (JUDICIAL), MR. RAMESH NAIR
HON'BLE MEMBER (TECHNICAL), MR. C L MAHAR

Final Order No.12311/2024

DATE OF HEARING/DECISION: 09.08.2024

RAMESH NAIR

The issue involved in the present case is that whether the appellant is liable to pay an amount equal to 7% upto 31.03.2016 and 6% w.e.f. 01.04.2016 of value of the non excisable product or otherwise.

2. Shri Devashish K Trivedi, Ld. Counsel appearing on behalf of the appellant at the outset submits that this issue is no longer res-integra. He submits that the goods on which the demand was made is by-product namely bagasse and bio-compost, press mud which emerges in the process of manufacturing of dutiable goods i.e. Sugar and molasses. He submits that in respect of the removal of by-product the demand under Rule 6 (3) which is equal to 7% / 6% is not legal and correct in the light of the following judgments:-

- 2015 (315) E.L.T. (Bom.) versus Union of India Hindalco Industries Limited
- 2015 (322) E.L.T. 769 (S.C.) - Union of India versus DSCL Sugar Ltd.
- Union of India and Ors. versus Indian Sucrose Limited S.L.P. C No. 1700/2021
- 2022 (58) G.S.T.L. 49 (Tri. Ahmd.) - Gujarat Mineral Development Corporation Ltd. versus Commr. of C. EX. & S.T., Vadodara-II

3. Shri Anand Kumar, Ld. Superintendent (AR) appearing on behalf of the revenue, reiterates the findings of the impugned order.

4. On the careful consideration of the submissions made by both the sides and perusal of the records, we find that the issue of demand of an amount under Rule 6 (3) on by-product such as bagasse and bio-compost, press mud etc. is no longer res-integra as held in various judgments particularly, in the case of Union of India versus DSCL Sugar Ltd (supra) .

5. Accordingly, the demand is not sustainable, hence the impugned order is set aside, appeal is allowed.

(Operative portion dictated in the open Court)

(RAMESH NAIR)
MEMBER (JUDICIAL)

(C L MAHAR)
MEMBER (TECHNICAL)

Bharvi