

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH AT HYDERABAD**

Division Bench – Court No. – I

Excise Appeal No. 22096 of 2014

(Arising out of Order-in-Appeal No. 27/2014 (G) CE dt.22.04.2014 passed by Commissioner of Central Tax, Central Excise & Service Tax (Appeals), Guntur)

M/s 3F Industries Ltd

PB No.15, Tanuku Road, Tadepalligudem,
West Godavari Dist., AP – 534 101

.....Appellant

VERSUS

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

PB No.331, CR Building, Kannavari Thota,
Guntur, Andhra Pradesh – 522 004

.....Respondent

Appearance

Shri Y. Sreenivasa Reddy, Advocate for the Appellant.

Shri M. Anukathir Surya, AR for the Respondent.

**Coram: HON'BLE MR. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE MR. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30257/2026

Date of Hearing: 06.01.2026
Date of Decision: 29.04.2026

[Order per: A.K. JYOTISHI]

M/s 3F Industries Ltd (hereinafter referred to as the appellant) are in appeal against the OIA dt.22.04.2014 (Impugned Order), whereby, the appeal filed by the appellant against the OIO dt.30.09.2013 was rejected.

2. The brief facts of the case are that the appellants are engaged in manufacture of Fatty Acids and Fatty acid pitch, etc. The department noticed that during the manufacture of refined oils, 'waste mud' is emerging after the process of bleaching of crude palm oil is done. The said waste mud was considered as excisable good classifiable under Tariff 1522 0090 and since the appellant had not discharged any Central Excise duty on the said good, a SCN was issued demanding duty. On adjudication, considering the submissions made by the appellant, the adjudicating authority took into account Board Circular No. 904/24/09-CX dt.28.10.2009 and also the fact that as per Notes under Chapter 15, bleaching amounts to manufacture and

held that spent earth emerging during the course of bleaching of crude palm oil qualifies the test of manufacture too as the said product has marketability.

3. Learned Advocate for the appellant has mainly submitted that on this issue in their own case, pertaining to the same period, the Tribunal has dropped the demand allowing the appeal filed by them vide Final Order No. A/30012/2026 dt.09.01.2026. In addition, he has also submitted that spent earth is a waste material emerging unavoidably by using bleaching earth in the process of refining of crude vegetable oils and therefore, it cannot be treated as manufactured excisable good.

4. Learned AR, on the other hand, has reiterated the findings of the Commissioner (Appeals) in the impugned order.

5. Heard both sides and perused the records.

6. The short question for determination is whether waste mud is an excisable good and therefore, liable to Central Excise duty or otherwise, keeping in view the amendments in the statutory provisions defining 'excisable goods' in clause (d) of section 2 of Central Excise Act, 1944 in the Budget of 2008. We find that this issue in respect of same appellant was examined and this Tribunal, after considering various judgments, inter alia, allowed the appeal. The relevant paras of said order, cited supra, are reproduced below for better appreciation of reasons for allowing the appeal.

"2. Learned Advocate has submitted that the issue is no longer res integra in view that demand has been confirmed relying on circular dt.28.10.2009, which was quashed by the Hon'ble High Court of Allahabad in the case of Balrampur Chini Mills Ltd Vs UOI [2014 (300) ELT 373 (All)] and subsequent thereto, the said circular itself was withdrawn by the CBIC after the decision of Hon'ble Supreme Court in the case of DSCL Sugars Ltd., vide Circular No. 1027/15/2016-CX dt.25.04.2016. Moreover, relying on the said circular, the Tribunals have also dropped similar demands in case of other units. He has relied on certain judgments, as under.

- a) CCE, Hyd-III Vs Divis Lab [2017 (347) ELT 275 (Tri-Hyd)]
- b) M/s Gemini Edibles & Fats India Pvt Ltd Vs CCE & ST, Guntur [2016 (6) TMI 990 – CESTAT Hyd]
- c) CCE, Chandigarh-I Vs Marico Ltd [2022 (382) ELT 436 (SC)]
- d) Ricela Health Foods Ltd Vs CCE, Chandigarh [2018 (361) ELT 1049 (Tri-LB)]
- e) Arihant Solvex Pvt Ltd Vs CCE, Jaipur-I [2015 (316) ELT 290 (Tri-Del)]
- f) Commissioner Vs Markfed Vanaspati & Allied Industries [2002 (145) ELT A250 (SC)]

3. *He has also taken an alternative plea that spent fuller earth is specifically exempted vide Notification No.93/1989-CE dt.01.03.1989 and also as waste under Notification No.89/1995-CE dt.18.05.1995. Moreover, on the grounds of limitation also, he has submitted that demands are not sustainable.*

6. *The short question for determination is whether the waste mud (spent earth) is chargeable to excise duty or otherwise. We find that the only ground taken by the department is that there has been an amendment in section 2 of Central Excise Act, 1944, whereby, certain explanation was inserted to decide as to what would be treated as 'excisable goods'. We find that the department has mainly relied on the circular dt.28.10.2009 issued by the CBIC to treat such goods as excisable goods, whereas, the Board themselves have, vide their circular dt.25.04.2016, inter alia, directed that certain items like 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 Cenvat Credit Rules (CCR), 2004. This was in view of certain amendments made in Rule 6 of CCR, 2004 w.e.f. 01.03.2015. Therefore, it is an undisputed fact that the directions contained in various circulars including Circular No.904/24/09-CX dt.28.10.2009, were withdrawn and rescinded. In the present case, it is not in dispute that the spent fuller earth has not emerged by way of any conscious effort and it has emerged involuntarily in the process of bleaching the crude palm oil and that the said emergence called waste mud (spent earth) during the course of bleaching. It is also not disputed that the adjudicating authority has relied on clarification issued vide circular dt.28.10.2009 to hold said waste mud as excisable good. We also find force in the judgments cited by the appellant, wherein, the demands have been dropped taking into account the rescindment of said circular. We also find that there is an omnibus Notification No.89/1995-CE dt.18.05.1995, which exempts all waste, parings and scrap arising in the course of manufacture of exempted goods and falling within the Schedule to the Central Excise Tariff Act, 1985, from the whole of the duty of excise."*

7. In view of the above, the impugned order is not sustainable and is accordingly, set aside.

8. Appeal allowed.

(Pronounced in the Open Court on 29.04.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)