

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

REGIONAL BENCH-COURT NO.2

Excise Appeal No. 12581 of 2019- DB

(Arising out of Order in Appeal CCESA-SRT-APPEAL-PS-359-2019-20 dated 30.08.2019 passed by the Commissioner (Appeals), CGST & Central Excise-Surat)

SHREE CHALTHAN VIBHAG KHAND

UDYOG SAHAKARI MANDLI LTD

At & Post- Chalthan, Taluka- Palsana,
Dist. Surat, Chalthan-394246, Gujarat

.....Appellant

VERSUS

**COMMISSIONER OF CGST &
CENTRAL EXCISE- SURAT**

New Central Excise Building,
Opp. Gandhi Baug, Chowk Bazaar,
Surat-395001

.....Respondent

APPEARANCE:

Shri Devashish K Trivedi, Advocate appeared for the Appellant

Shri Rajesh K Agarwal, Superintendent (AR) appeared for the Respondent

CORAM:

HON'BLE MEMBER (JUDICIAL), DR. AJAYA KRISHNA VISHVESHA

HON'BLE MEMBER (TECHNICAL), MR. SATENDRA VIKRAM SINGH

Final Order No. 10358/2026

DATE OF HEARING: 28.04.2026

DATE OF DECISION: 17.06.2026

SATENDRA VIKRAM SINGH

M/s. Shree Chalthan Vibhag Khand Udyog Sahakari Mandli Limited, Dist. Surat (Appellant) are manufacturing V. P. Sugar falling under CTH 1701 of the Central Excise Tariff Act, 1985. On an inquiry by the Jurisdictional Range Officer regarding payment of sugar cess on the quantity of sugar exported, the appellant informed that during the period from October-2016 to June-2017 they had cleared 62500 Qtls. of V. P. Sugar to different merchant exporters for export under CT-1 certificates without payment of central excise duties including sugar cess. After conducting investigation, revenue was of the view that the appellant was liable to pay sugar cess on clearance of 62500 Qtls. of sugar to merchant exporters @Rs.124 per Quintal and therefore, a show cause notice dated 12.02.2018 was issued to the appellant demanding

sugar cess of Rs.77,50,000/- under Section 11A along with interest under Section 11AA and penalty under Rule 25 of the Central Excise Rules, 2002.

1.1 The show cause notice was adjudicated by the Joint Commissioner vide order dated 10.06.2019 wherein, he confirmed the demand of sugar cess of Rs.77.50 Lakhs along with interest and also imposed a penalty of Rs.7.75 Lakhs on the appellant. Aggrieved with the said order, appellant filed an appeal before the Commissioner (Appeal) submitting that the sugar exported out of India is exempt from whole of the cess amount. They also submitted that in a similar case, appeal of Shree Madhi Vibhag Khand Udyog Sahakari Mandli Ltd. was allowed vide order dated 27.03.2015. The Appellate Authority vide impugned order dated 30.08.2019 rejected the party's appeal and upheld the decision of the lower authority. Hence, the present appeal.

2. The appellant took following grounds in their appeal-

- The order of the Appellate Authority is illegal, improper and incorrect as Notification No.SO.585(E) dated 30.07.1993 issued by the Ministry of Food exempting payment of sugar cess on sugar exported out of India has been completely ignored. The demand has been confirmed on them by considering Notification No.42/2001-CE(N.T.) dated 26.06.2001.
- The Appellate Authority has considered CBIC Circular No.262/01/2007-Cx-8 dated 20.03.2007 which according to him clarifies that when goods are exported under bond, without payment of duty, the applicable cess is liable to be paid. The said Circular clearly incorporates that cess is liable to be paid unless it is exempted by a Notification which in their case has been done vide above Notification dated 30.07.1993 of Ministry of Food.
- Hon'ble Karnataka High Court in the case of Shree Renuka Sugars Ltd reported at 2014 (302) ELT 33 (KAR) has held that sugar cess is a kind of duty of excise. Therefore, exemption from payment of cess in case of

export of sugar is available even under Notification No.42/2001-CE (NT) dated 26.06.2001.

- They are not liable to pay any interest as sugar cess itself is not payable by them. On the same ground, they are also not liable to any penalty as imposed by learned Adjudicating Authority and upheld in the impugned order. The appellant prayed to set aside the impugned order and allow their appeal.

3. During arguments, learned Advocate mentioned that in view of the decision of Hon'ble Karnataka High Court in the case of Shree Renuka Sugars Ltd (cited supra) and the Final Order No.10829/2025 dated 01.10.2025 of this Tribunal in the case of M/s. Mehta Herbals Pvt. Limited, it is well settled position that sugar cess is a duty of excise. He argued that the issue in the case of Indian Sugar Exim Corporation reported at 2009 (240) ELT 298 (Tri.-Mum) was on different footing as the matter in that case was related to illegal diversion of sugar in domestic tariff area and therefore, in such facts, it was held that not just duty of excise but also sugar cess is payable on the goods. He pleaded that the facts in the case of Indian Sugar Exim Corporation are entirely different and therefore, not applicable in the present case. He pleaded that their appeal be allowed by setting aside the impugned order.

4. Countering the argument, learned AR mentions that Notification No.42/2001-CE(NT) dated 26.06.2001 exempts various duties/ cesses on goods exported out of India. For the purpose of this Notification, duty means duties of excise collected under the following enactments namely-

- a. The Central Excise Act, 1944 (1 of 1944);
- b. The Additional Duties of Excise (Goods of Special Importance) Act, 1957,
- c. The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978;
- d. The National Calamity Contingent Duty (NCCD) leviable under section 136 of the Finance Act, 2001, as amended by Section 169 of the Finance Act, 2003 which was amended by Section 3 of the Finance Act, 2004;

- e. Any Special Excise Duty collected under a Finance Act.
- f. Additional duty of excise as levied under section 157 of the Finance Act, 2003.
- g. The Education Cess on excisable goods as levied and collected under section 91 read with section 93 of the Finance (No. 2) Act, 2004.
- h. The additional duty of excise leviable under clause 85 of the Finance Bill, 2005.
- i. Secondary and Higher Education Cess on excisable goods leviable under clause (126) read with clause (128) of the Finance Bill, 2007,
- j. Infrastructure Cess leviable under sub-clause (1) of clause 159 of the Finance Bill, 2016.

4.1 Learned AR mentioned that sugar cess collected as Excise duty under the provisions of Sugar Cess Act, is for the development of sugar industry and for matters connected therewith. It is evident from Notification No. 42/2001-CE (NT) dated 26.06.2001 that sugar cess has not been exempted on sugar exported out of India and only the duties/ cesses listed in this Notification are exempt. Learned AR also mentioned that CBIC vide Circular No.262/01/2007-Cx-8 dated 20.03.2007 has clarified that when goods are exported under bond without payment of duty, applicable cess is liable to be paid unless it is exempt by a Notification. He pleads that sugar cess is liable to be paid by the appellant on sugar exported out of India and therefore, appeal of the party being devoid of merit, may be rejected and the impugned order be upheld.

5. We have heard both sides. The short issue in the matter is whether or not sugar cess is payable on sugar exported out of India?

5.1 Both sides agree that the appellant had cleared 62500 Qtls. of sugar for export through merchant exporter on which they did not pay any sugar cess thinking that cess is not payable on exports. We find that Ministry of Consumer Affairs, Food and Public Distribution Department vide Notification

No. SO.585(E) dated 30.07.1993 has exempted sugar cess on sugar exported out of India. The said Notification is reproduced as under:-

<p>Sugar Leviable under Sugar Cess Act, 1982 (3 of 1982) read with Sugar Development Fund Act, 1982 (64 of 1982)</p>			
Sugar Produced by Any factory in India	Rs.15 per quintal	(a) Rs.14 per quintal (b) Sugar exported out of India exempted from whole of the cess	Vide Ministry of food Notification S.O.No. 585 (E) Dated 30.07.1993

5.2 Appendix- III of the Central Excise Tariff Act has from time-to-time incorporated rate of sugar cess leviable on sugar produced by any factory in India. We however find from the Central Excise Tariff Act for different years including the period in dispute, that varying rate(s) of sugar cess was levied on domestic clearances of sugar but sugar exported out of India was exempt from whole of the sugar cess. Not only this, sugar cess was also exempt on sugar manufactured from such other sugar on which sugar cess has been paid. Relevant entry No.17 of Appendix- III of the Central Excise Tariff Act,1985 for the year 2015-16 is reproduced as under:-

Appendix III Excise Duties and Cesses leviable under Miscellaneous Acts			
17	Sugar produced by any factory in India	Rs. 25 per quintal	(a) Rs. 24 per quintal; (b) Sugar exported out of India exempted from whole of the cess.
17	Sugar manufactured from such other sugar on which sugar cess has been paid		Fully exempted from Sugar Cess.

5.3 We further find that CBIC vide Circular No.10/93-Cx.8 dated 01.09.1993 issued from F. No.261/12/42/92-Cx.8 has exempted sugar cess on sugar exported out of India. The said Circular is reproduced as under:-

"Sugar Cess — Exemption of Cess on Sugar to be exported

Circular No. 10/93-CX.8, dated 1-9-1993

[From F.No.261/12/42/92-CX.8]

Government of India

Central Board of Excise & Customs

New Delhi

Subject : Sugar Cess Act, 1982 - Exemption of Cess on Sugar to be exported.

NOTIFICATION

In exercise of the powers conferred by sub-section (4) of Section 3 of the Sugar Cess Act, 1982 (3 of 1982), the Central Government, being satisfied that it is necessary in public interest so to do, hereby exempts the duty of excise, leviable under sub-section (1) of Section 3 of the said Act, on sugar exported out of India, with immediate effect."

5.4 The above legal position leaves no doubt in our minds that sugar cess was exempt for that quantity of sugar which is produced in India but exported out of country. We further find that neither the show cause notice nor the impugned order disputes the fact of export of 62500 Qtls. out of India and therefore, by virtue of above Notifications, we are of the view that sugar cess is not payable on above quantity.

5.5 We also find that the matter is no more res-integra as this Tribunal vide Final Order No. A/11367/2018 dated 05.07.2018 in the case of Shree Madhi Vibhag Khand Udyog Sahakari Mandli Ltd has decided same issue wherein, it was held that levy of sugar cess has been exempted on sugar exported out of India. The relevant para 6 is reproduced as under:-

"6. We find that the short issue involved in the present appeal is: whether the sugar cess is payable on export of sugar during the relevant period. We find that the levy of sugar cess has been exempted by virtue of notification issued by the Ministry of Food dated 30.07.1993 as mentioned in Appendix-III of the Central Excise Tariff Act, 1985 on its export out of India. Also, in the Circular of the CBEC dated 20.03.2007, it is clarified that cess is payable unless it is exempted. In these circumstances, we do not find any merit in the impugned order. Besides, on the same issue, the Ld. Commissioner (Appeals) for earlier period dropped the demand against the appellant, and the said order has been accepted by the department. In the result, the impugned order is set-aside and the appeal is allowed with consequential relief, if any, as per law."

5.6 In view of the above, we allow appeal filed by the party and set aside the impugned order.

6. The appeal allowed.

(Pronounced in the open court on 17.06.2026)

**(DR. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)**

**(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)**

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