

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

REGIONAL BENCH - COURT NO. 2

Excise Appeal No. 85501 of 2019

[Arising out of Order-in-Appeal No. PUN-EXCUS-001-APP-355-18-19 dated 15.10.2018 passed by the Commissioner of Central Tax (Appeals-I), Pune.]

Commissioner of Central GST

Kolhapur CGST Commissionerate
Vasant Plaza Commercial Complex
4th&5th Floor, C.S. No.1079/2, K.H.,
Rajaram Road, Bagal Chowk
Kolhapur, Maharashtra – 416 001.

.... **Appellant**

Versus

Shree Renuka Sugars Limited

C/o DRK Panchaganga SSK Limited
Ganga Nagar, Ichalkaranji
Kolhapur District, Maharashtra – 416 108.

.... **Respondent**

Appearance:

Shri Tanuj Bisht, Authorized Representative for the Appellant

Shri Rahul Patil, Chartered Accountant for the Respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86211/2026

Date of Hearing: 11.09.2026

Date of Decision: 30.09.2026

Per: M.M. PARTHIBAN

This appeal has been filed by Revenue assailing the Order-in-Appeal No. PUN-EXCUS-001-APP-355-18-19 dated 15.10.2018 (herein after, referred to as "the impugned order") passed by the Commissioner of Central Tax (Appeals-I), Pune, arising from the case of CENVAT demands against the assessee M/s Shree Renuka Sugars Limited, Kolhapur.

2.1 Brief facts of the case, leading to this appeal are summarized herein below:

2.2 The respondent-assessee herein is 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 respondent-assessee is duly registered with the jurisdictional Central Excise authorities holding registration No. AADCS1728BEM017. The respondent-assessee avails 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 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. The bagasse is burnt in the boiler as fuel and steam is generated; such steam generated in the boiler is used in the turbine for generation of electricity. The electricity thus generated is captively consumed by the respondent-assessee during sugar crushing season and excess or surplus electricity produced is sold to M/s Maharashtra State Electricity Distribution Company Ltd (MSEDCL). It is the contention of the department that since generation of electricity and wheeling out of the same to MSEDCL is exempted from payment of central excise duty, the respondent-assessee was required to observe the procedure laid down under sub-rule (3) of Rule 6 of CENVAT Credit Rules, 2004 and respondent-assessee is liable to pay an amount equal to 6% of the value of the exempted electricity sold to MSEDCL.

2.4 On the basis of such understanding, periodical statement of demand cum Show Cause Notice (SCN) dated 22.11.2017 was issued against the respondent-assessee, demanding excise duty of Rs. 1,67,45,797/- for the

period November, 2015 to March, 2016 under Rule 14 of the CENVAT Credit Rules, 2004 read with Section 11A(1) of the Central Excise Act, 1944 along with interest and also proposed for imposition of penalties under Section 11AC, Rule 27 *ibid*. In adjudication of the SCN dated 22.11.2017, the Joint Commissioner had confirmed all the proposals made in the SCN. Being aggrieved with the order of the original authority, the respondent-assessee had preferred an appeal before the Commissioner (Appeals). In disposing the appeal, learned Commissioner (Appeals) in relying upon the decision of the Tribunal in the case of *M/s Jawahar SSK Ltd. Vs. Commissioner of Central Excise, Pune-II* – 2016 (46) S.T.R. 396 (Mumbai) had dropped the adjudged demands confirmed by the original authority on the respondent-assessee by setting aside the order of original authority and allowing the appeal in favour of the respondent-assessee. Feeling aggrieved with the impugned order, the Revenue has preferred this appeal before the Tribunal.

3. Learned Authorised Representative (AR) appearing for Revenue reiterated the grounds made in the appeal memorandum filed by Revenue.

4. Learned Counsel appearing for the respondent-assessee submitted that the very same issue which is disputed in the present appeal, has 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) *Gularia Chini Mills Vs. Union of India* – 2014 (34) S.T.R. 175 (All.)

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

(iii) *Olam Agro India Private Limited, Shree Renuka Sugars Ltd. & others Vs. Commissioner of CGST & Central Excise, Pune-I* – 2026 (4) TMI 860 - CESTAT MUMBAI;

(iv) *Shree Renuka Sugars Limited Vs. Commissioner of Central Tax and Central Excise, Belgaum* – Final Order Nos.21128-21130/2023 dated 18.09.2023;

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

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

6. The issue involved in this appeal is to examine whether the respondent-assessee is required to pay the CENVAT demand in respect of clearance of electricity outside their factory; and whether the impugned order, in setting aside the confirmation of adjudged demands by the original authority, is legally sustainable.

7. Both sides agree that the issue arising out of the present dispute have already been decided in favour of the sugar manufacturers/respondent-assessee 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 electricity produced from bagasse and sold to electricity authority of State Government cannot be subjected to payment of amount equal to 6% of the value of electricity sold by them under Rule 6(3) *ibid*.

8.1 The findings of the Co-ordinate Bench of the Tribunal in the case of *Olam Agro India Private Limited, Shree Renuka Sugars Limited & Ors.* (*supra*) involving identical set of facts are as follows:

"4. We find that an identical dispute in the case of *M/s Vaidyanath SSK Ltd. and others* came up for hearing before the Commissioner of GST, Aurangabad and vide Order-in-Original No. 25-44/CEX/COMMR/MKR/2021-22 dated 17.11.2021, the matter was adjudicated in favour of the assessees, by dropping the show-case proceedings initiated against them. In the said adjudication order dated 17.11.2021, the learned Commissioner by relying upon the judgement delivered by the Hon'ble Supreme Court, in the case of *Union of India Vs. DSCL Sugar Ltd. – 2015 (322) E.L.T. 769 (S.C.)*, judgement of Hon'ble Allahabad High Court in the case of *Balrampur Chini Mills Ltd. Vs. Union of India – 2019 (368) E.L.T. 276 (All.)* and Hon'ble Delhi High Court in the case of *Commissioner of Central Excise and S. Tax LTU, Delhi Vs. Nangalamal Sugar Complex – 2020 (371) E.L.T. 501 (Del.)*, had held that electricity produced from bagasse by the assesses and sold to MSEDCL cannot be subjected to payment of amount equal to 6% of the value of electricity sold by them under Rule 6(3) of the CENVAT Credit Rules, 2004. The period of dispute involved in the said decided case by the Commissioner was from February 2015 to June 2017. In the present appeals, the period of dispute involved is from March 2015 to December 2015. There is no change in the statutory provisions during the period, for which the Order dated 17.11.2021 (*supra*) was passed by the Commissioner of GST, Aurangabad vis-à-vis the present impugned order passed by the learned Commissioner (Appeals). Thus, the issue arising out of the present dispute regarding payment of amount of 6% in terms of Rule 6(3) of the Rules of 2004, shall not be applicable in case of generation

of electricity and wheeling out the same to M/s MSEDCL. We find that the order dated 17.11.2021 passed by the Commissioner of GST, Aurangabad (supra) has been accepted by the Committee of Chief Commissioners in their meeting held on 11.02.2022. Since, no appeal was preferred against the said order dated 17.11.2021, the matter arising out of the present dispute regarding payment of amount under Rule 6 (3) ibid has attained finality and cannot be agitated further. In view of the fact that the issue arising out of the present dispute, is no more open for any debate, in view of the adjudication order dated 17.11.2021 passed in the case of M/s Vaidyanath SSK Ltd. & others, we are of the view that different interpretation cannot be placed at this juncture, for deciding the present appeals differently.

5. Therefore, we do not find any merits in the impugned order, insofar as it has upheld confirmation of the adjudged demands on the appellants. Accordingly, the impugned order is set aside and the appeals are allowed in favour of the appellants."

8.2 We further find in the case of *DSCL Sugar Limited* (supra), the Hon'ble Supreme Court has held generation of bagasse as waste would not be subjected to central excise duty. The relevant paragraphs of the judgement delivered by the Hon'ble Supreme Court are as quoted below:

"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.

11. Since it is not a manufacture, obviously Rule 6 of the Cenvat Rules, 2004, shall have no application as rightly held by the High Court. Civil Appeal No. 9332 of 2013 : CCE v. M/s. Saryoo Sahakari Chini Mills Ltd.

12. Since Bagasse is held not to be result of any manufacture, this appeal is also dismissed.

1. SLP(C) No. 3340 of 2013 : *Union of India v. Haidergarh Chini Mills*

2. SLP(C) No. 3342 of 2014 : *Union of India v. Akbar Pur Chini Mills*

3. SLP(C) No. 3344 of 2014 : *Union of India v. Gularia Chini Mills*

4. Civil Appeal No. 2761 of 2014 : *Union of India v. Manakpur Chini Mills*

5. Civil Appeal No. 2762 of 2014 : *Union of India v. Kumbi Chini Mills*

6. Civil Appeal No. 2763 of 2014 : *Union of India v. Manakpur Chini Mills*

7. SLP(C) No. 10273 of 2014 : *Union of India v. Upper Ganges Sugar & Ind. Ltd.*

8. Civil Appeal No. 1231-1232 of 2014 :

13. Cenvat Credit in respect of electricity was denied only on the premise that Bagasse attracts excise duty and consequently Rule 6 of the Cenvat Credit Rule is applicable. Since this action of the appellant is found to be erroneous, all these appeals of the Revenue also stand dismissed."

8.3 We also find in the case of respondent-assessee themselves *Shree Renuka Sugars Limited* (supra), the Co-ordinate Bench of the Tribunal at Bengaluru and this Bench of the Tribunal have held generation of electricity from bagasse which is a waste product, and its clearance outside the factory through State Electricity authority would not require the sugar manufacturer producing electricity and wheeling it out to state electricity authorities to reverse CENVAT credit. The relevant paragraph of the aforesaid order is quoted below:

"5. The short issue involved in the present appeal is; whether 6% of the value of the electricity sold being generated out of waste product viz. bagasse be subjected to 6% of the value of the electricity generated and sold under Rule 6 of the Cenvat Credit Rules, 2004?."

6. We find that the Hon'ble Supreme Court in DSCL case, while examining the amendment to the definition of "goods" under Section 2(d) of the Central Excise Act, 1944 observed as follows:.....

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7. It has been held in the said case that Rule 6 of the Cenvat Credit Rules, 2004 cannot be made applicable to waste products i.e. bagasse. The said principle has been followed subsequently in Indian Sucrose Ltd. case (supra). Following the aforesaid laid down principles, we do not find merit in the orders of the learned Commissioner (Appeals). Consequently, the impugned orders are set aside and appeals are allowed with consequential relief, if any, as per law."

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 appeal filed by Revenue. Therefore, we are of the considered view that the impugned order dated 15.12.2018, passed by the learned Commissioner (Appeals) is sustainable and it does not require any interference.

10. In the result, the impugned order passed by the learned Commissioner is sustained and the appeal filed by the Revenue is dismissed.

(Order pronounced in open court on 30.09.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha