

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

REGIONAL BENCH - COURT No. III

**Excise Appeal No. 41089 of 2017**

(Arising out of Order-in-Original No.05/2017-CE (COMMR.) dated 08.03.2017 passed by Commissioner of Central Excise, No.1, Foulks Compound, Anai Road, Salem 636 001)

**M/s.The Salem Co-operative  
Sugar Mills Ltd.**

Mohanur, Namakkal District,  
Pin: 637 015.

**.... Appellant**

*VERSUS*

**The Commissioner of GST &  
Central Excise,**

No.1, Foulks Compound, Anai Road,  
Salem 636 001.

**... Respondent**

**WITH**

**Excise Appeal No. 41090 of 2017**

(Arising out of Order-in-Original No.06/2017-CE (COMMR.) dated 08.03.2017 passed by Commissioner of Central Excise, No.1, Foulks Compound, Anai Road, Salem 636 001)

**M/s.The Salem Co-operative  
Sugar Mills Ltd.**

Mohanur, Namakkal District,  
Pin: 637 015.

**.... Appellant**

*VERSUS*

**The Commissioner of GST &  
Central Excise,**

No.1, Foulks Compound, Anai Road,  
Salem 636 001.

**... Respondent**

**APPEARANCE :**

Ms. R.S. Swetha, Advocate for the Appellant  
Ms. Rajni Menon, Authorized Representative for the Respondent

**CORAM :**

**HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)**  
**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER No.40576-40577/2025**

**DATE OF HEARING : 03.06.2025**  
**DATE OF DECISION : 04.06.2025**

**Per: Shri P. Dinesha**

These appeals are filed against the Orders-in-Original No.05/2017 & 06/2017 both dated 08.03.2017, but since the issue and the appellants are common, both the appeals are taken up together for common disposal.

2. The admitted facts are that the appellant is a manufacture of Sugar and Molasses from sugarcane, the process of manufacture which involves feeding of the sugarcane into a crusher to extract the juice and the dry pulp residue after the extraction of juice which is known as Baggase remains. It is a waste material which emerges as a resultant product in the above process which is used in the

newspaper industry. It is the case of the appellant that the said Bagasse is an 'exempted goods' which is failing under CET entry 23032000 with 'Nil' rate of duty, the appellant appears to have availed cenvat credit of duty paid on various chemicals and service tax paid on input services. The appellant however was issued with a Statement of Demand (SOD) dated 11.05.2015 demanding payment of 6% on the sale of Bagasse in terms of Rule 6(3) of Cenvat Credit Rules, 2004 since, according to the Revenue, the cenvat credit earned input / input service was used common for the manufacture of 'dutiable goods' i.e. Sugar and Molasses and 'exempted goods' viz. Bagasse. It appears that the appellant filed its reply, denying the liability, but however not satisfied with the reply the Commissioner of Central Excise, Salem vide the impugned Orders-in-Original *supra* confirmed the demands as proposed in the respective of SODs. It is against these demands that the appellant filed separate appeals.

2. Heard Ms. R.S. Swetha, Ld. Advocate for the Appellant and Ms. Rajni Menon, Ld. Deputy Commissioner for the Respondent, we have perused the documents and considered the judicial precedents relied upon during the course of arguments.

3. Upon hearing the rival contentions, the only issue that survives for our consideration is, “whether the demand of Excise Duty on Bagasse as confirmed in the impugned order is justified ?”

4. We find, after going through judicial precedents relied upon by Ms. Swetha, Ld. Advocate, that the issue has already been considered and hence, the same is no more *res integra*. In the case of **Balrampur Chini Mills Ltd. Vs Union of India** - 2019 (368) ELT 276 (All.), the Hon’ble Allahabad High Court has considered the very same issue in the context of the amended provisions namely, insertion of Explanation (1) to Rule 6 vide the Circular No.1027/15/2016-CX, dated 25.04.2016 and held as under :

“34. In light of the above we are of the considered opinion that in absence of Bagasse being a manufactured final product, the obligation of reversal of Cenvat Credit under Rule (1) of the Cenvat Credit Rules, 2004 is not attracted, and the ratio laid down in the judgment of the Hon’ble Supreme Court in the case of *Union of India and others v M/s. DSCL Sugar Ltd and Others* (supra) still holds the field. Rule 6 of the Cenvat Credit Rules would have no application for reversal of Cenvat Credit in relation to Bagasse. The Circular No. 1027/15/2016-CX, dated 25-4-2016, contained in Annexure-1 to the writ petition to the extent that it includes Bagasse under the purview of the reversal of credit of input services in terms of Rule 6 of the Cenvat Credit Rules, 2004, as well as the impugned show cause notice dated 24-3-2017 contained in Annexure-2, are hereby quashed.”

5. The Hon'ble High Court has also, interestingly, held that the above circular treating Bagasse to be a non-excisable goods is clearly erroneous and for this reason, the above circular with regard to 'Bagasse' was held to be quashed. We find that the above decision has been followed by various CESTAT Benches.

6. In view of the above, we are of the view the impugned orders demanding Central Excise duty on Bagasse cannot sustain for which reason, we set aside the impugned orders. Resultantly, the appeals stand allowed with consequential benefits, if any, as per law.

(Order pronounced in open court on 04.06.2025)

**(P. ANJANI KUMAR)**  
Member (Technical)

**(P. DINESHA)**  
Member (Judicial)