

Circular No. 1084/05/2022-CX

CBIC-110267/33/2022-CX-VII SECTION-CBEC
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Tax & Customs
(CX & ST Wing)

New Delhi, dated: 7th July, 2022

To,

1. The Principal Chief Commissioner / Chief Commissioner, CGST & CX (All)
2. The Principal Director General/ Director General (All)
3. The Principal Commissioner / Commissioner, CGST & CX (All)
4. Webmaster.cbic@icegate.gov.in for uploading the Instructions on CBIC's website

Madam/sir,

**Subject: Excisability of waste/ residue arising during the process of manufacture-
Withdrawal of Circular No. 1027/15/2016-CX dated 25.04.2016- Reg.**

Excisability of bagasse and similar other by-products or waste arising during the course of manufacture of an excisable product has been brought to the attention of the Board.

2. It may be recalled that rule 6 of the CENVAT Credit Rules, 2004 was amended with effect from 1.03.2015 by inserting Explanation 1 and 2 in sub-rule (1) of rule 6, which provides that exempted goods or final product shall include non-excisable goods cleared for consideration from the factory.

3. Accordingly, Circular No. 1027/15/2016-CX dated 25.04.2016 was issued highlighting that 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 the CENVAT Credit Rules, 2004. This circular was issued in the background of judgement of the Hon'ble Supreme Court in the case of Union of India Vs. M/s. DSCL Sugar Ltd [2015 (322) E.L.T. 769 (S.C.)] holding that Bagasse is only an agricultural waste and residue and it is not a result of any process which can be termed as manufacture', Similar conclusion was also drawn by the Hon'ble High Court of Bombay in the case of M/s Hindalco Industries Ltd. Vs. Union of India (2015 (315) E.L.T.10 (Bom.)) in relation to dross and skimming of aluminium, zinc or other non-ferrous metals.

4. The issue again came before the Hon'ble Supreme court in the case of Union of India Vs. M/s. Indian Sucrose Limited [SLP (C) No. 1700/2021], wherein the Hon'ble Supreme Court vide its judgement dated 04.03.2022, referred to its observations in the Union of India vs. M/s. DSCL Sugar Ltd & Ors. (supra) holding that Bagasse is non-excisable to which the CENVAT Credit Rules have no application, and held that the Circular dated 25.04.2016 is unsustainable in law.

5. In light of the above judgement, Circular No. 1027/15/2016-CX dated 25.04.2016 has become non-est and is hereby rescinded. Cases kept in Call Book on the above issue, if any, may be taken out and adjudicated in light of the law decided by the Apex Court.

6. Difficulty experienced, if any, in implementing the circular should be brought to the notice of the Board.

7. Hindi version will follow.

Yours faithfully,

(Rubal Sarohà)

Under Secretary to the Government of India